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T H E

35

O R

New Slaughter House in

With the Authority that constituted  
and ordained it.

F O R

Being the III. Part of the History of Independency,  
written by the same Author.

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Printed *Anno Domini*  
Yeare *of the*

*In the*  
*and the*

---

Plin. Paneg. ad Trajanum.

*Olim criminibus, jam legibus laboratur: & metuendum est,  
ne legibus fundata Respublica, sit legibus eversa.*

*Isaiah 59. vers. 3. 4.*

Your hands are defiled with blood, and your fingers with iniquity; your lips have spoken lies, your tongues have muttered perversnes. None calleth for Justice nor any pleadeth for truth; they trust in vanity and speake lies; they conceiye Mischiefe and bring forth Iniquity.

*Vers. 7.*

Their feet runne to evill, & they make hast to shed innocent blood: their thoughts are thoughts of iniquity, wasting and destruction are in their pathes. The way of peace they knowe not, and their is no judgement in their goings.

*Vers. 11.*

Wee looke for Iudgement, but ther is none: For Salvation but it is far from us.

*Vers. 14.*

Iudgement is turned away backward: and Justice standeth a farre of: For truth is fallen in the streets, and Equity can not enter.

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**T**Hat every thing is kept and maintained by the same waies and meanes it was got and obtained; is a rule true both in Philosophy and Policy. And therfore Dominion gotten by fraud and force, must by fraud and force be preserved. Things impiously got, must be impiously kept. When usurped Tiranny laies its foundation in bloud, the whole Superstruction must be built with Morter tempered with bloud. One Sinne must defend and make good another. And hence ariseth a Necessity upon Ambitious men to flancke and fortify one Crime with another. But to pleade this Necessity, which they have so willfully drayne upon themselves, in justification of their wicked Courses, To expect submission, Obedience and an equall Engagement from men uninterrested therein, and to intitle the Divine Providence and unrevealed will of God thereto ( in opposition to his will revealed and declared in the Scriptures, as is now a daies used ) is to accuse the Holy Ghost of our Sinnes, and an hypocrisy so impudently sinfull and damnable, that I doubt no age but this, ( the Dregs and lees of time ) ever gave an example of the like.

*Unquamque  
que conser-  
vatur eodem  
modo quo fit.*

**T**O illustrate my first Maxime by some forreine Examples ( before I lay the Bastard at our owne Doores ) Sylla at Rome, by the power of the Sword, proclaimed ( or voted ) himselfe Dictator: to make good which usurpation with a Maske of Authority, he compelled the Senate

4 The History of Marius. Part. III.  
or Parliament) to approve of all his fore passed villanies, Murders and illegall Actes, and to conferre a power upon him; To kill whom he pleased & confiscate their Estates; To build and destroy Cities; Dispose Kingdomes; And exercise an Arbitrary, Supreme Authority, and then (to establish himselfe in his selfe-created power) he posted up at Rome, and in most Cities of Italy, Bills of Proscription or Outlawry, containing the names of such persons, as (with out any forme of Lawe or Justice) he appointed to be slaine by his Souldiers. These Proscribed men were (for the most part) such as having some Sparkes of Roman virtue in them, durst love the Auncient Government, Lawes and Liberties of Rome, and were therfore thought fit to be weeded out, as Malignants against his Innovations & Arbitrary courses. Yet many meane spirited fellowes, were proscribed and murdered, partly for confiscation of their Estates, and partly to gratify the Malice and hatred of particullar friends who (in that carnage) praid in aid of Syllas sword to ridd them of their Enemies.

After this Augustus Caesar at Rome, having by terror of Armes made himselfe Consul, and finding himselfe not strong enough singly to subjugate his Country, he called Antonius and Lepidus to joine with him, with whome entering into confederacy to subvert the Fundamentall Government, and usurpe the Supreme Authority, They divide that vaste Empire betweene them, and passed a Decree amongst themselves; That they should be called the Triumvirate for Re-forming and Reestablishing the Common wealth (well enough before if they had let it alone) with Supreme Authority to give Estates & Offices to whome they thought fit; without asking the Advise of Senate or People. They appointed what Consuls, Magistrates and Officers they pleased: They

They designed riche donatives, & 18 of the Chiefe Cities of Italy to be given to their Souldiers, if, by their valor, they should obtaine victory over Brutus and Cassius, *They fixed publike listes or Tables of Proscription, naming such Persons as they exposed to slaughter.* They Proscribed at one time 130 Senators at another time 150 and 2000 Knights. *Wherby the best men for understanding, conduct Resolution and Affection being cut of, the rest (terrified by their example) became but Terra Maledicta (as Chymickes call it) dull liveles Ashes or clods of Earth, without power or virtue to quicken them, or make them productive.* After some revolutions wherein Augustus and Antonius had discarded the dull and stupid Lepidus, and (at last) Augustus had subdued Antonius: Augustus usurped the Title of *Tribune of the People*, wherby his Person became sacred & inviolable; and (humouring the irrationall Animals) tooke upon him the especiall Protection of that Brutish heard, the Rascall Multitude, The Tribunes of the People having bin originally instituted to protect the People. His next step was to make himselfe *Perpetuall Dictator*, wherby he arrogated to himselfe a vaste, unlimited power above all Lawes. The Tribuneshipp was his Buckler, The Dictatorshipp was his Sword. And last of all (for Ornament only) *He having already the full power of an absolute Monarche (although he forbore the Title of (King) because it was hatefull to the People and against the Lawes ever since the Regifugium)* he tooke upon him the Title of *Princeps Senatus*, or President of the Senate; to keep a corresponding power over that great Counsell or Parliament: And finally usurped the Title and Office of *Imperator or Generalissimo* of all forces by land & Sea, Garrisons, &c.

Philippe King of Spaine Lord of the 17 Belgike Provinces by severall Titles, and under severall limitations, Privileges, exemptions and Fundamentall Lawes according to which he was to governe & they to obey : Resolving to subvert the Fundamentall Lawes and Government and reduce those 17 Petty Signiories into one meere, absolute Monarchy ; sent the Duke D'Alva thither ( a warrior of a resolute, stern nature ) Governor with a powerfull Army . Who taking advantage of some rude commotions formerly raised by the Protestants in throwing downe Images and sacrilegiously plundering Churches, erected a *New Tribunall Criminall*, or ( to speake in our moderne, uncouth language ) *A High Court of Justice*, consisting of 12 Commissioners or Iudges purposely chosen, most of them hangers by of the law, of meane fortunes, practise, birth and breeding ; Covetous, Ambitious and slavishly addicted to the Spanish faction. To these was given by speciall commission full power and Authority to inquire into and judge ( or to heare and determine ) the forepassed commotions, wherupon they stiled this Court, *Concilium Turbarum*, but the multitude called it *Concilium Sanguinis* ; or the *Bloudy Conventicle*. This Counsell or Inquisition did superseed and extinguish the Authority of all other Courts of Iudicature, & make void all Lawes, Constitutions, Iurisdiccions and Priviledges of the Nation, as to the aforesaid commotions, & all other causes they pleased to call high Treason. They had no other boundes, nor limits in their proceedings, then what they prafixed to themselves, in certaine Articles. Some few wherof I will heere present unto my Reader, because they judged of high Treason by those Articles, not by the knowne lawes of the land ( a thing

*In novum  
regnum vi  
armisq; par-  
tum redige-  
re, atque a-  
liis Novis le-  
gibus doma-  
re ac guber-  
nare Bel-  
gium.*

*Alexander. in  
anno 1567.*

*Roidan. in  
anno 1566.*

*John Fraun-  
ces Petit.*

*Thuanus.*

very observable and applicable to my purpose) so that they were not only Judges, *Leges dicere*: but also Law-makers, *Leges dare*: as all Judges are who take upon them a liberty to observe no set formes of proceedings: but at their owne pleasure.

1. ARTICLE. All Petitions heretofore tendered to the States, or Cities Corporate against the erecting of New Episcopall Sees; or against the Holy Inquisition; or requiring a Moderation of Decrees or Actes of State or Parliament are accounted meere conspiracies against God and the King.

Petition-  
ing against  
Innova-  
tions in  
Govern-  
ment and  
for the  
knowne  
lawes

made Treason, the like the Parliament practiseth against such as petitioned for peace by accommodation. And against our High Court of Iustice, Arbitrary Imprisonments and Taxes.

2. ART. All Nobles, Gentry, Iudges, Magistrates, and all others who connived at Hereticall Sermons, plundering of Churches, and delivering such petitions as aforesaid, pretending the necessity of the times, and did not resist and oppose them.

3. ART. *Whosoever affirms, That all His Majesties Subjects of Belgia have not forfeited their auntient Priviledges, immunities and lawes for Treason: and that it is not lawfull for the King to use and handle them for the aforesaid Treasons as he pleaseth*, to prevent the like Treasons for the time to come, and that the King is not absolved thereby from all Oathes, Promises, Graunts, Contractes and Obligations what soever.

Wee have  
forfeited  
our lawes  
by con-  
quest or  
else our  
Grandees  
would not  
passe the  
two Acts  
for Treason 14.

May. 17. Iuly. 1649. nor erect the High Court of Iust. and our auntient lawes and government. See Pol. 3. Oct. 1650. and of the Kingdom stated.

abolish  
the Case

Compare this with the two Acts for New Treasons. 14.

May. 17. July 1649. and the Act 26. March 1650. and Sr. Io. Gells case stated.

Our High Court of Just. exceeds all this. See Sr. I. Gells case stated; Printed Aug. 1650.

4. ART. *They that affirme; This Counsell or high Court of Justice to exercise Tiranny in their Proceedings, or Judgements; and that they are not Supreme and competent Judges in all causes Criminall and Civil.*

May. 17. July 1649. and the Act 26. March 1650. and Sr. Io. Gells case stated.

5. ART. *Those that in case of Heresy deny, that all manner of Informers and witnesses of whatsoever Degree and condition they be, are to be credited: and that upon the Testimony of any two witnesses, this High Court ought to proceed to Iudgement execution and confiscation of life and goods, without publishing the cause or charge, and without any legall forme of Triall. All these are guilty of high Treason against God and the King.*

The Rigor, Cruelty and Injustice of this New created Counsell of Bloud, or High Court of Iustice, inforced the Lowe Countries to revolt and cast off the King of Spaine.

LET us now examine whether in some one little Province or Island belonging to that vast Roman Empire; and in some meane, petty fellowes, (Natives of that Island) men even at home of obscure birth, breeding and fortunes; wee can not find examples of Ambition, usurpation and Tiranny, as high and transcendent; as bloody and destructive; as covetous and greedy; as any of the fore-recited presidents? And (which is worst of all) carried on by those that call themselves Christians, nay Saints (which is more then they vouchsafe to Saint Peter and

and the rest of the Apostles, though glorified Saints in the Church Triumphant ) and such as in all their bloody, oppressing, cheating Designs, ( promoted by perjury, Treachery, breach of faith, Oaths and publike Declarations ) pretend to the singuler favour, Providence and will of heaven as confidently, as if they could shew Gods speciall commission, to warrant Usurpation, Treason, Tyranny & Theivery.

It is not unknowne by what Artifices, frauds, falsified promises, Oaths and covenants, *a Party of Antimonarchists, Schismatiks and Anabaptists* lurking in the Parliament *fooled the People to contribute their blood & money towards the subduing of the King ( and in him, of themselves )* and how by the same waies and subtleties the said Party in the two Houses ( now combined openly, under the Generall Title of Independents ) engaging and conspiring with the Officers of the Army and Soldiery *expelled by arm'd force 7 Parts of 8 of the House of Commons*, leaving not above 43 or 44 of their owne engaged Party sitting, men enriched with publike Spoiles ) and voting under the power of the *Armies commanders, whose commands are now become a Lawe to the said sitting Members as their votes are become Lawes to the whole Kingdom.* In Obedience to their said Masters of the Army, The said Remainder of Commons voted downe the House of Lords, ( though an integrall and principall Member of the Parliament of England, farr auntienter then the House of Commons, and having a power of Iudicature and to administer an Oath, ( which the House of Commons never had nor pretended to have, untill this time that they overflowe their Bounds and the whole Kingdoms under the protection of their Army, ) which prerogative of

the House of Lords is cleerely demonstrated by the House of Commons standing bare before them at all conferences, as the Grande Enquest doth before the Iudges) because they rejected the Ordinance for Triall of the King. And *now these Dregs and Lees of the House of Commons, take upon them to be a compleat Parliament:* To enact and repeale statutes; To subvert the Fundamentall Government, Lawes and Liberties of the Land: To pull up by the Rootes (without legall proceedings) every mans private property and possession, and destroy his life. To burden the people with unsupportable, unheard of, unparliamentary Taxes; Impositions, Excise, Freequarter, buying of New Armes after the Country have bin disarmed of their old Armes three times in one yeare; Pressings & leavyings of Souldiers, Sequestrations, Plundering of houses and horses: and many other oppressions; more then the Turke, Russe or Tarter ever heard of: of all which our *Grandeess are free*, and lay them upon others as partially as they please, purposely to consume them. To make Religion but a stalking horse to their designs, and the Ministers therof but hostlers, to rub downe, curry and dresse it for their riding: to whom they send commandes; what

In their Taxe Roles, they usually set in the Margent to every name, private notes of distinction. An M. an N. or P. The letter M. stands for

Malignant; he that is so branded is highly taxed, and his complaints for redres slighted. N. stands for a Neuter: He is more indifferently rated, and upon cause shewn may chance to be releevd. The letter P. signifies a perfect Parliamentarian. He is so favourably taxed as he beares an inconsiderable part of the burden: And that they may the better consume with Taxes & want all such as do not concur with them in the height of their villanies. The pretended Parliament are now debating to raise the monethly Taxe to 240000 lib. or to deprive every man of the third part of his Estat both Reall & Personall for maintenance of their immortall warrs and short lived Commonwealth. Besides Excise, Customes, Tonnage and Poundage, Freequarter, finding of Armes and Horses; and the sale of Corporation Lands now in agitation. Whilest our grandeess enrich all the Banks of Christendom with vast summes raised by publike theft and Rapine,



what they shall, and shall not, preach to the people; as if preaching were the Ordinance of Man, not of God. At last, by way of preparative to their machinations, they passe these following votes.

1. *That all Supreme power is in the people.*

2. *That the Supreme Authority under them, is in the peoples Representatives or Delegates in Parliament assembled.* Meaning themselves (you may be sure) the Quintessence and Elixer of the House of Commons, extracted by those learned Chimickes, Doctor Fairfax, Doctor Cromwell and the rest; graduated at that degraded University of Oxford. Heer note they voted the Supreme power to be in the people, that they might use those Gules as conduite Pipes or Trunckes, to convey the Supreme Authority into themselves, the better to enslave the people; *And tickle them whilst they fasten about their necks the Iron yoke of a Military Oligarchy, wearing the Maske of a perpetuall Parliament.*

3. *That whatsoever the Commons in Parliament shall enact, shall have the power and force of an Act of Parliament or Law; without the consent of the House of Lords, or the Kings Royall Assent: any statute, lawe, custome or usage to the Contrary notwithstanding.* (they might have said all our statutes, lawes, customes &c. notwithstanding) This one vote hath more of Dissolution and more of Vsurpation and Innovation in it then any I yet ever read of; *This is universally Arbitrary, and laies the Axe to the roote of all our Lawes, Liberties, Lives and Properties at once.*

*What these men will they vote:*

*What they vote is lawe.*

*Therefore what they will is lawe.*

4. *That to wage warr or beare Armes against the Representative body of the People or Parliament is high Treason.* By the lawe all Treasons are committed against the King, his crowne and Dignity.

5. *That the King hath taken up Armes against this Parliament and is therefore guilty of all the blood shed in this warr, and should expiate those crimes with his blood.* If the King were not guilty, these men are; And therefore they passed this vote, *Se defendendo*. Yet observe that herein they became Iudges in their owne cause; and forejudged his Majesty before his Triall; if that may be called a Triall, that was carried on by men, who were both Accusers, Prosecutors, Parties and Iudges; and had neither lawe, Præsident, formality of proceedings, nor any other foundation of Iustice or Reason to warrant them, nor were delegated by any lawfull Authority?

These votes thus passed, and by this kinde of men, were the foundation upon which they built their great Engine to destroy the King & Kingly Government together with the Religion, Lawes liberties, lives and Properties of the People. (all condemned in that deadly sentence given agaynst the King) For having (as aforesaid) created (by their owne votes) themselves as absolute a power as they pleased & cast the People and all they have into that bottomles chaos of their Arbitrary Domination; They erect an Extrajudiciall, unpræsented high Court of Iustice to Try (or rather to condemne without Triall) the King: Consisting of 150. Commissioners; Souldiers, Parliament men, Trades men; the most violent, engaged and factious incendiaries of all the Antimonarchical faction: Amongst whom were many lowe con-

conditioned Mechanickes, and Banquerouts, whose fortunes are since repaired out of the Kings Estate, and other publique Lands, Goods and Offices; as a reward for that Royall Bloud they spilt. The King (the fountaine of Lawe, Justice, Mercy, Honor, Warr and Peace; The head of the Parliament and Supreme Governor over all Persons and in all causes) thus violently removed; presently (as if the Mounds and Bancks of the Sea had bin overturned) an impetuous inundation of bloody theevish Tyranny and Oppression brake in upon us: So that no man can call his life, liberty, house, lands, goods, or any other his Rights or fraunchises his owne, longer then the gracious aspect of some of our Graundees, shine favourably upon him.

See Stat. Recognition. 1 Jac. The Oaths of Allegeance, Obedience and Supremacy: & all our Lawe Bookes.

In the next place: (contrary to their owne Declarations, of the 9. Feb: and 17. March 1648. Wherein they promise; That in all things concerning the lives, liberties & properties of the people, they will observe the knowne lawes of the land, with all things incident thereto) *They passe misbegotten Acts of Parliament one of the 14. of May, another of the 17. of July 1649. whereby (in derogation and annihilation of that excellent Stat. 25. Ed. III. Chap. 2. Ascertainig Treasons and reducing them to a small number; And leaving nothing to the Interpretation of the Iudges, that the people might not be ensnared) They exceeding by multiplying Treasons, bringing bare words as well as Deedes within compasse of that Offence: and making many duties to which the Lawes of God and the Land, the Protestation and Covenant, the Oaths of Allegeance, Obedience and Supremacy oblige us, to be high Treason. And these New Acts of Treason penned in obscure, ambiguous termes purposely to leave a latitude of Inter-*

This Stat. 25. Ed. III. c. 2. St. Iohns against Strafford calls the Security of the People. And the Sta. 1. Hen. 4. Chap 10. Ed. VI. Chap. 12. 1. Maria I. ratify and highly commend

pretation in ( their owne creatures ) the Iudges ; that the People may be ensnared.

The King thus taken out of their way. They have passe pretended Acts. 1. To *Disinherit his children.* 2. To *abolish Kingly Government for ever.* 3. To *convert our auntient, well tempered Monarchy into that* ( which they call a *Commonwealth or Free-State* ; although nothing be therein free but their lusts : nor hath it any forme or face of Civill and just Government ; Wherin a confused Multitude rule by their owne wills , without law : and for their owne benefit ; No consideration being had of the good and happines of the people in generall. 4. *They Constitute a Senat or Counsell of State of 40. men* ( amongst which some Trades men , Souldiers , illiterate lawiers , Parliament Members, men allready engaged over head & eares in sinn , therefore to be confided in ) to these or any 9 of these they entrust the Administration of this Utopian Commonwealth and these they would have us beleve ( without telling us so ) are the keepers ( or Gaolers ) of the Liberties of England.

These things being but Introductions to the usurpation of these Kinglings : and having bin allready shewed to the world by many pens . I content my selfe to give a cursory view of them : and hast to my intended taske. To shew , That this usurped power , is kept and administred , by as wicked and violent Policies as it was gotten by.

The first endeavour of all Tirannicali Usurpers is. To lessen the number of their Enemies ; either by flattering  
to make them of more account. And this grosse fallacy must not be disputed against least their new Acts of Parliament call it Treason.

flattering and deceiving them: or by violently extirpating and rooting them out. And such have bin the attempts of our new Cromwellian Statists, ever since (without any calling from God or the People) they tooke upon them the Supreme Authority of the Nation; subverted our well mixed Monarchy & created themselves a Free-State.

1. They endeavoured to sweeten & allure to act with them, as many of the Secured and Secluded Members, Ministers and other Presbyterians, as they could, to the end that *ex post facto* being guilty of their Sinnes, they might be engaged in one common defence, & goe halves with them in their ignominy and punishment, though not in their power, profit and preferments: in which the Godly will admit no Rivalls, but (like their Patron, The Devill) cry, all mine. But this Designe fayled for the most parte.

1.  
A collu-  
sive Ac-  
commo-  
dation.

2. Their second Endeavour, was how to diminish the Number of their Opposites; Royallists and Presbyterians; by a Massacre. For which purpose many Darke Lanthornes and Ponyardes were provided last winter 1649. But fame prevented this plot: which coming to be the Common rumour of the towne; put them in minde of the daunger, infamy and hatred that would overwhelme them. So this was laid aside.

2.  
An inten-  
ded Mas-  
sacre.

*At last they invented two other Engines, no lesse bloody then, and as effectuell as a Massacre.*

3. The Engagement (is the first of these two Gins) which all Persons are enjoined to subscribe by their Act 2. Jan: 1649. *To be true to the Commonwealth of England, as it is now established, without a King or House of Peeres.* And this is obtruded under no lesse penalty, then; To be totally deprived of all

3.  
The En-  
gage-  
ment.

Benefit

Benefit of lawe whatsoever. Now the lawes of the land being the only Conservators of our lives Liberties and Estates (without which lawes all men have a like property to all things, and the strongest have right to all is posselt by the weaker; since the lawe only distinguisheth *Meum* and *Tuum*) what is this but to expose the Liberties of the Non - Engagers to false Imprisonments; our Estates to rapine, spoile and Injustice: and our lives and Persons, to woundes and Murders, at the will and pleasure of such as will engage with our Usurpers: but especially at the pleasure of their owne Souldiers: to whome (I conceive) this Outlawry was intended as an Alarme or Invitation to plunder & Massacre the Non - engagers, and to pay themselves their Arreares (of which these Parliament men have cousened them) out of their Estates. And, though the souldiers were not so wicked as their Masters, Yet wee daily see many good Families in England despoiled of their Estates, for want of Protection of the lawes, brought to miserable beggery, rather then they will wrong thir consciences by subscribing this damnable Engagement contrary to the Protestation and Covenant imposed by this Parliament contrary to the knowne lawes of this land, which this Parliament hath declared to observe and keepe in all things concerning the lives, liberties and properties of the people, with all things incident thereto; contrary to this Parliaments reiterated votes; That they would not change the Aunient Government, by a King, Lords and Commons. And contrary to the Oathes of Allegiance, Obedience and Supremacy: whereby (and by the Stat. of Recognition 1. Jac.) our *Allegiance* is tied only

to the *King*, his *Heires* and *Lawfull Successors*: from which no power on earth can absolve us; and so much wee attest in the Oathe of Supremacy. *Politicus* (Interpreter to our New State-Puppet play) Numb. 16. from Sept. 19. to Sept. 26. out of the dictates of his Masters tells us, That in Answer to the Kings Act of oblivion graunted, the Parliament intends to passe an Act of Generall pardon; for which they expect in future a Generall obedience & submission to the Government. (you see though they will not be the Kings subjects, they will be his Apes) and in the beginning of the said Pamphlet, *Politicus* saith; That Protection implies obedience, otherwise they may be handled as publike Enemies and outlawes, and ought to be destroyed as Traitors. Heer you have the end to which this Generall pardon is intended: it is but a Shooing-horne to drawe on the utmost penalty upon Non-engagers, appointed by the said pretended Act 2. Jan. 1649. to weede them out of this good Land, that the Saints only may enjoy the Earth and the fullnes thereof; to which purpose all their new coyned Acts and Lawes are directed. The Scripture points forth these kind of men, when it saith. *The Mercies of the wicked are cruell*. The sume of all is. If wee will not acknowledge Allegiance to these Mush-romes, wee shall be Traitors without Allegiance (a Treason never yet heard of in any lawe) If wee will acknowledg Allegiance, wee put our selves in a capacity to be Traitors, when they shall please to make us such. But let them knowe; That wee are all Englishmen, Free-borne alike, under the Protection of an Auntient, legall Monarchy, to which wee owe Allegiance: and how wee come to forfeit that legall Protection, our settled.

lawes and Government; and be subjected to a New, unknowne Protection obtruded upon us by a Company of upstartes ( Mushromes of Majesty so meane in birth and breeding ( for the most part ) that the place of a Constable equalls the highest of their education ) imposing what lawes and conditions upon us they please ; I would be glad to heare without being hindered by Guns , Drums , High Courtes of Iustice and other Instruments of violence & Murder. But the greatest Mistery in this cheate is , That our Selfe-created Supremists, having voted the Originall power to be in the people , and but a Derivative Authority to be in themselves as the Representative of the people , should notwithstanding so yoake their Sovereaine Lord the people , and make them pay Allegiance to their owne Delegates ( the 8 part of a House of Commons ) under the penalty ( unles they subscribe as the farr major parte have not ) of outlawing and depriving all the people of this Land of all benefit of the lawes they were borne to ; and consequently of annihilating and making them no longer a Nation or people. As if they were meere Salvages , newly conquered , collected and formed into a Politike body or Commonwealth, and endowed with lawes newly invented by these Novice Statistes. But the unlawfullnes of the said Engagement with the Injustice of the Selfe - created power that obtrudeth it, hath bin handled by many good pens: especially by the *Cheshire* and *Lancashire* Ministers in their Plea for Non-Subscribers. Therefore I passe on to my principall scope; *The second Engine appointed to roote out all such as are of a different Party , The High Court of Justice.* A formidable Monster , upon which no pen ( that I knowne of ) hath yet adventured.



4. In treating of the High Court of Iustice: I must consider. 1. *By what Persons and Authority this New* <sup>4. The High Court of Iustice.</sup> *erected, unpresidented Court is constituted?* 2. *Of what Persons it is constituted?* 3. *The way and Manner of their proceedings?* What formalities and lawes they observe therein? How sutable to the knowne lawes of the Land, and the Parliaments Declarations, Protestations and Covenant they are? 4. *To what end this Court is constituted?*

1. *The Persons constituting this extrajudiciall Court* are the present, pretended Parliament consisting of 40 or 50 thriving Commons only, who conspired with Cromwell & the Army to expell 7 parts of 8 of their fellow Members, without any cause shewen, abolished the House of Peeres, erected this High Court of Iustice (*in nature of a Court Martiall*) to Murder the King, abolished Kingly Government: Turned it into a thing they call a *Free-State*; disinherited the Royall Family, and now *usurpe to themselves (with out any calling from God, or the People)* more then a *Regall, Legall or Parliamentary Authority*, wherewith they have subverted the Fundamentall Government, Religion, Lawes, Liberties and Property of the Nation, and envasallised & enslaved them to their Arbitrary Domination, The Authority by which they erect this extrajudiciall Court is, *The usurped, Legislative power*: By colour of which they passed an Act dated 26. March 1650. Establishing the said High Court of Iustice: *Let their owne creature Master St. Johns, in his Argument against the E. of Strafford, (in a Booke called Speeches and Passages of this great and happy Parliament, printed by William Cooke 1641. pag. 24.)* faith. *The Parliament is the Representative of the whole King-*

dom, wherein the King as head, The Lords as the more Noble, and the Commons the other Members, are knit together as one Body Politike; The Lawes are the Arteries and Ligaments that hold the Body together. ( And a little after ) *Its Treason to embesell a judiciable Record, Strafford swept them all away. Its Treason to, counterfeite a 20<sup>s</sup> peece heere is a counterfeiting of lawe (so in these counterfeite New Acts) wee can call neither the counterfeite nor true one our owne. Its Treason to counterfeite the Great Seale for an acre of Land, no property heereby is left to any Land at all. ( no more is their by the votes and practise of our New Supremists ) thus farr Master St. Johns. But that the Parliament doth necessarily consist of the King and the two Houses assembled by his writ, and can passe no Act, without their joint consent: See the Præambles of all our Statutes, all our Parliament Recordes. All our Lawe Bookes: *Modus tenendi Parliamentum*. Hackwells manner of passing Bills. Sr. Tho. Smith *de Repub. Anglorum. Cambdeni Britannia*. All our Historians, Politicians, and the uninterrupted practise of all Ages. That it is now, lately otherwise practised; is not by any Law of the Land, but by the will of lawlesse power and Rebellion, That hath cancelled all our Lawes. Liberties and Properties and subverted our Fundamentall Government and disfranchised and disinherited the whole Nation. Yet Master St. Johns in his said Argument against Strafford pag. 38 was then of opinion: *That to subvert the Lawes and Government and make a Kingdom no Kingdom, was Treason at the Common Lawe.* This Act 26. March 1650, is a new modelled Commission of Oier and Terminer: And all the People of the Land, are by the consequence thereof disfranchised and proscribed. The illegality and tyranny*

ranny thereof, they have introduced, who in this Parliament so zealously complaind against the Court of the President & Counsell of York or of the North, as an intolerable grievance ( notwithstanding it had bin of as long continuance as from 31. H. 8. ) as appears by a worthy *Members speech or Argument against it* ( in the said Booke of Speeches & Passages pag. 409. made by order of the House of Commons in April 1641. I find not one Exception their made against the Court of York, to which this upstart High Court is not more liable then it. 1. The Commissioners of this High Court are not appointed *to inquire, per Sacramentum proborum & legalium hominum.* That is, by Iuries: As by *Magna Charta*, and above 30. Statutes confirming it, all Commissions ought to runne. 2. They are not appointed ( nor sworne ) *to heare and determine, Secundum Leges Angliæ*, according to the knowne Lawes, ( as they ought to be ) but according to certaine Articles and powers given in the said Act 26. March 1650. 3. The said Act 26. March leaves a daungerous latitude to the interpretation & discretion of the Commissioners ( contrary to what is don in the Act 25. Ed. 3. chap. 2. ) namely ; It hath *one Clause enabling them to Inflict upon Offenders such punishments, either by death or otherwise corporally, as the said Commissioners, or the Major part of them present shall judge to apperteine to Justice.* This leaves it in the breasts of the Commissioners, ( without any Lawe or rule to walke by ) to inflict what torments and ignominious punishments they please, although not used in our Nation. And *Arbitrary corporall paines are only proper to Slaves; not to Subjects.* Heer ( after the losse of all but their bodies ) the people

may see their bodies subject to the Laweles wills of our Graundees. And by another clause, this Act empowreth the Commissioners: *To examine witnesses upon Oath; or otherwise, if neede be.* This word ( *or otherwise &c.* ) gives them power to examine witnesses without Oath ( if they can not procure witnesses so farr the Sonnes of Belial and cauterised in Conscience as to adventure upon an Oath ) even in case of life and death and mutilation of Members; Contrary to the current of all our lawes, and practise of all our Courts of Lawe, and of all Nations. See Stat. 1. Ed. VI. chap. 12. 5. Ed. VI. chap. 11. Cookes 3. Inst. pag. 24. 25. 26. Deut. 17. 6. *Ex ore duorum vel trium peribit qui occidetur.* Deut. 17. 6. Matth. 18. 16. Iohn. 18. 23. 2. Cor. 13. 1. Heb. 10. 28. This is the most arbitrary and destroying liberty that ever was given to Iudges; And such as none but professed Theeves and Murderers will accept or make use of. The Scripture saith. *An Oath is the end of controversy betweene man and man. How then can they end and determine a controversy without Oath.* But the end of all controversies before this Butcherrowe of Iudges, is cutting of throates and Confiscation of Estates. And by the same clause of the said Act ( *To examine witnesses* ) They may, and ( *I heare* ) do examine witnesses clandestinely and proccede upon bare Depositions read in Court whereas they ought to produce the witnesses face to face in open Court, and there sweare them, that the Party accused may interrogate them, and examine the circumstances, and whether they contradict themselves, or one another, for cleering the Evidence? And whether they be lawfull witnesses or no? Nay ( *I heare* ) they do privately suborne and en-

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See Stat.  
5. Ed. VI.  
chap. 11. &  
Cooke  
3. Inst.  
pag. 26.

gage witnesses without Oath. And then produce them to sweare what they have formerly related only: and if they scruple at an Oath, Punish them for misinforming the State. 4. That I may make some more use of the aforesaid Members words. *Whether the King, or a prevailing Party usurping his Kingly power* ) may canton out a part of his Kingdom, (or cull & marke out for slaughter, some principall men & deny them the benefit of lawe, in order thereto, as these Judges doe) to be tried by speciall Commission, since the whole Kingdom is under the knowne Lawes & Courts established at Westminster? It should seeme by this Parliamêts eager complaint against the speciall Commission of York, this Parliament hath determined this question in the Negative already, (whatsoever their present practise to carry on their Designe is ) See Stat. 17. Car : 1. against the Starre Chamber. To what purpose serve those Statuts, of *Magna Charta* and the Petition of Right if men may be fined and imprisoned (nay murdered) with out lawe according to the Discretion of Commissioners? This Discretion is the quicke sand that hath swallowed our Properties and Liberties. (but is now ready to swallowe our carkasses ) Thus farr that Gentleman, Whose words then carried the Parliamentary stampe upon them. Let me adde some more exceptions of my owne against this high Court of Injustice. 5. *Soldiers of the Army are appointed by the Act 26. March. To be assistent, to the Commissioners.* Contrary to the peaceable proceedings of the Lawe, which never makes use of any but Civill Magistrates & Officers of the Lawe. See Stat. 7, Ed. I. 2. Ed. III. chap. 3. 7. R. II. chap. 13. 6. And contrary to the old Oath which all Judges ought to take, in these words. You shall sweare well and lawfully to serve the King and People, in the Office of Justice &c. And that if any  
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of what estate & condition they be, come before you in the Sessions with force and Armes, against the peace, or against the Statute therof made, to disturbe the Execution of the Common Lawes, or to menace the People, that you arrest their bodies, &c. Stat. 18. Ed. III. in An. Domini 1344. pag. 144. Poultons Booke of Stat. at large. But the Oath appointed for these Commissioners to take, is not penned in Tearmes of Indifferency. Nor doth any waies oblige them to the people. 26. March 1650. (viz:) You shall sweare well and truly according to the best of your skill and knowledge, to execute the Severall powers given you by this Act. (not well and lawfully to serve the people). Besides they sweare to execute The Severall powers given. (not to do Justice according to the Lawes) Now the Lawes are the only Rules of Justice, by which we distinguish crooked from straight, true from false, Right from wrong. This is not the worke these Iudges are packed for, but to execute Acts of power and will. But powers are often usurped, Tyrannicall, illegall and unjust: So are these. *Injuria est quod contra legem fit.* 7. How can the House of Comons (if it were full and free) constitute a New unpresidented Court of Iustice, nominate and ordaine Iudges, and enable them to administer Oaths; Having never had, nor so much as pretended to have, any power to Iudge, to nominate Iudges, or to administer an Oath; as having never bin more then the Grande Enquest of the Kingdom, humbly to present to His Majesty in a petitionary way, the Grievances of the people? *Nemo dat, quod non habet.* 8. Suppose the House of Commons had power of Iudicature, delegated to them from the people as their Representative? *Delegati non possunt substituere Delegatos, & Potestatem sibi conceditam, in alios transferre.* Delegates

legates can not make subdelegates, and transferre their trust to others. See Col. Andrewes 3 Answeres given into this High Court, for his defence. Printed at the latter end heereof.

2. My Second consideration will be, *Of what Persons delegated or commissioned, this Court consisteth?* The pretended Act 26. March 1650. names 25. Commissioners, all which (for their better credit) it enacteth Esquiers, amongst whome are 4. or 5. that have professed the Lawe, (as farr as wearing a lawers gowne comes to) but were better knowne by their leisure then by their lawe; untill by adhering to our prevailing Schismatikes, in subverting our lawes, they seeme to be eminent lawyers. Of *Keeble* see the Triall of L. Col. *John Lilburne*, 1 and 2 Part. *Steele* cited expired Statutes at Winchester against Cap. *Burley*. The rest are (for the most part) poore ignorant Trades men, some so young they are but lately out of their Apprenticeshipps, others Broken Trades men that have compounded with their Creditors, some of vild & base professions; One or two of these Wolvish Saints (I heare) have with some difficulty escaped the gallowes for Manflaying: *William Wibealde* Esquier is a Rope-seller: this employment may happily helpe him to the Hangmans custome. *William Pemoier* Esquier was heeretofore an Ape-carrier, Cherry-lickom or Mountredin & idio. *Cooke* a vintner at the Beare at the Bridge foote, he keepes a vaulting schoole for our sanctified Grandees, and their ladies of the Game. If the House of Commons had power to make Iudges (which I have disproved) yet, *Ex quovis ligno non fit Mercurius*. They must name such Persons as may be competent Iudges. And therefore

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must

must not choose. 1. Ignorant men. 2. Nor such as the Law calles, *Viles Personæ*, men base or contemptible for their Persons or Sordide callings; Mechanickes of the lowest rancke. 3. Persons of Scandalous life and conversations. 4. Not Banquerouts and Indigent Persons. *Necessitas cogit ad turpia*. 5. Not partiall and preingaged Persons, chosen to suppress another party. As these Commissioners are engaged to the present power to suppress all others. 6. Nor such as *Schismatically or Heretically affected*, are seasoned with such *Doctrines and Principles*, as neither agree with the Duties of a good Christian, a good Commonwealths man nor a good Judge, Which two last Objections not only these Commissioners, but the pretended Parliament that commissioned them are apparently guilty of, as being all of the Independent faction conspiring to robb and roote out all other Parties: Royallists, Presbyterians and Levellers: For which purpose this New Tribunall or Inquisition is set up. *Independency being a meere complication and Syncretismus, or rather a Sinke and Common Sewer of all Errors, Heresies, Blasphemies and Schismes*, (though they peevishly differ in some inconsiderable Tenents) yet having one *Generall End* or scope at which they all chiefly aime (viz:) power, preferment, profit, and the suppression of the Truth and Magistracy, they have likewise some common principles to soader them together, which they use as a *Meanes* conducing to that *Generall End*, Some few wherof I will heere set downe for my Readers satisfaction.

1. To tolerate no King nor Magistrate Superior to themselves. As Being a Tyranny or Bondage over the Christian Liberty of the Saints and Kingdom of Christ. Because they knowe no Christian Magistrate can tolerate them, being (by the Genius of their Sect &)

enemies



enemies to all Civill Societies, whether Monarchicall, Aristocraticall, Democraticall or Mixed; as the Kingdom of England was before these men destroyed it. Besides their common Doctrine *That they are appointed to breake the powers of the Earth to peeces, To levell the hilles and fill up the valleies, That they are called, To bruise the Nations with a rodd of Iron, and breake them in peeces like a Potters vessell*: Which they have don in England and threaten the like in Fraunce, Germany, &c, wherof their pulpits and discourses found. Observe *their Practises in the Lowe Countries*. Where having by their spies and Emislaries, found out some Burgers of the same humour with themselves; They propagated their Doctrine so farr; as to endeavour To strike the Aristocraticall Members out of that Commonwealth by abetting some of the States Provinciaall to lessen (and so to abolish by degrees) The Lords States Generall (the Optimates of that State) To ruine the Prince of Orange, to whose Family they owe their Liberty; *To dissolve the Generall Union of the said United Provinces, and so take in peeces the whole Frame of that Republike*. To say nothing of their Insolencies in fighting and killing their men, because the Belgike Lion will not strike faile to their Crosse and Harpe; and in blowing up the Antelope in Helversluice: Which shewes what good Neighbours Holland, and other Parts, are like to have of the New State of England and Ireland (when they have made themselves intire by the purchase of Scotland) that is borne (like our English Rich. III.) with Teeth in its head; and snappeth at its Neighbours before it be out of its Swadling clouts. This is the cause that Cromwell, before he set saile for Ireland, caused his Journey

men, the pretended Parliament, To passe an Act for Tolleration of all Errors, Heresies & Schismes, under the Notion of Liberty of Conscience, and Ease for Tender Consciences. 2. Their second Principle is, *That the Good things of this World belong only to the Saints (that is, Themselves) all others being usurpers therof: and therefore they may robb, plunder, sequester, extorte, cheate and confiscate (by illegall Lawes of their owne making, by extrajudiciall Courts and partiaall Iudges of their owne constituting) other mens Goods and Estates; upon as good Title as the Jewes spoiled the Egip- tians; or expelled the Canaanites.* 3. Their third Principle. *That the Spirit (which sanctifies and illuminates these men) in every particuler man blowes when and where it will, sometimes this way, sometimes that way, often contrary waies: And therefore they can make no profession of any certaine Rule of Doctrine or Discipline, because they knowe not which way the Spirit will inspire.* For this reason they are still pulling downe old and setting up New Doctrines, as the Nomades doe cottages, only constant in unconstancy. They professe their consciences are the Rule and Symboall both of their Faith and Doctrine, by this Leaden Lesbian Rule they interpret, and to this they conform the Scriptures; not their Consciences to the Scriptures; setting the Sunne Diall by the clocke; not the clocke by the Sunne Diall. That every man must pray according to the Dictates of his Private Spirit; They reject the Lords Praier, for feare of quenching the Spirit. *When they breake their Faith, Articles, Promises, Declarations and Covenant; they alleage, the Spirit is the Author therof.* When Cromwell (contrary to his vowes and Protestations made to the King) kept him close Prisoner in Carisbrooke Castle; He affirmed *the Spirit would not let him keepe his word.* When, contrary

contrary to the Publike Faith, they Murdered Him: they pretended: *They could not resist the Motions of the Spirit. Sua cuique Deus sit dira libido.* This Hobgoblin serves all turnes. 4. Their fourth Principle is. *That they may commit any Sinne, and retain their Sanctity in the very Act of sinning: For what is sinfull in other men, is not so in the Saints; who may commit any crime against the Lawe of God, and yet it can not be imputed to them for Sinne; Because they knowe in their Consciences what they do. So tender and delicate are their Consciences; That they are capable of any Offence against their Neighbour, without breach of Iustice or Charity. A righteous man is a lawe to himselfe.* 5. Their fift Principle is. *That 7. make a Church: although men women and children, and that this Church is Independent upon any other. The Anabaptists (though they neither professe to followe Paul nor Cephas) yet declare themselves to be some of Cromwells Church, some of John Goodwins, some of Kiffins, some of Patiences and some of Carters Church.* 6. Their six Independent Principle is. *That if a man be questioned for any crime, though his Iudges have neither competent witnesses, proofes nor Evidence of his guiltines, yet if they thinke in their Consciences he is guilty; they may condemne him out of the Testimony of their owne Private Consciences.* Is it not fit men so Principled should be Iudges and Iury too; and condemne men by inspiration? So Col. Andrewes and Sr. John Gell were condemned; for Bernarde and Pius (witnesses against them) were apparently suborned by Bradshawe and Sr. Hen. Mildmay against them: and forsworne in the same cause; and good prooffe offered to the Court, that they were both Flagitious men, of scandalous life and conversation. The letter (supposed to be sent by Andrewes to Gell) was delivered to

Bradshawe, wereof Bradshawe sent a Copy only to Gell at 10. of the clocke at night; and had a warrant then ready to arrest Gell, which was don early next morning before he could conveniently discover it: Yet was Gell sentenced for Misprision of High Treason. See Sr. John Gells case stated, Aug. 1650. with Col. Andrewes Attestation (in his behalfe) under his hand a litle before his death. And though Sr. John was Impeached and Mr. Attorney prosecuted him only for Misprision; yet had he much a doe to keepe that bloudthirsty, old curre Keeble from taking a leape at his throat, and giving Iudgement against him for High Treason. So for want of lawe Sr. John had like to be hanged by Inspiration & Instinct of the Spirit. He that will see more of these Independent Tenets, Let him reade *Cl. Salmasius* chap. 10. *Defensionis Regiæ. Elenchus Motuum nupèròrum in Angliâ.* And the History of Independency. 1. and 2. part. These 6. I have selected, that by comparing their Doctrine with their daily Practise, the Reader may perceive what pious Christians, good Patriots, and upright Iudges, these engaged, Independent Commissioners of the High Court of Iustice are like to prove. The builders of this New Commonwealth or Babel, hold forth to the People, Iustice and Liberty, as their Motto: as if those excellent gifts had never received their birth, nor bin so much as shewen to the People untill they murdered the King, and stepped into his Throne. But how righteous a *Free State* or Commonwealth is this like to be? And how well are the People therein likely to be instructed in the wayes of Righteousnes, Iustice and Charity, and improved in good life and conversation, by men so principled as aforesaid, Let the

the world judge. Especially when they observe, That our New Statutes have enacted in the said pretended Act 2. Jan. 1649. enjoining the Engagement, That who soever will promise Truth and fidelity to them by subscribing the Engagement may deale falsely and fraudulently with all the world besides And breake all Bonds, Assurances and Contracts made with Non-engagers, concerning their Estates; and pay their Debts by pleading in Barr of all Actions, That the complainant hath not taken the Engagement: This is to robb the Egyptians of the good things of this world, This is to breake their Faith by the Motions of the Spirit. This is to cheate and robb their Neighbours without breache of Charity or Iustice and without imputation of Sinne according to their aforesaid Tenets.

3. I am come now to consider in the third place, *The way and Manner of their proceedings*; How consonant they are to the usuall proceedings of our knowne Lawes, and Legall Courts of Iudicature? (the best Inheritance of all Freemen) whereof see Col. Andrewes 3. Answeres in his Defence given into the said High Court, Here with printed.

1. The first Course they commonly take is; To breake open mens Houses, Studies, Chests, &c: and seile their Papers; and thereby hunt for Matter of Charge against them: And then to examine them against themselves, upon the said Papers, contrary to *Magna Charta* which saith, *Nemo tenetur prodere se- ipsum*. And contrary to the Doctrine of Christianity, which forbids a man to destroy his owne life, or be, *Felo de se*, as many men unwittingly doe, who answer to captious, ensnaring questions. When that tempting question

question was put to Christ; *Art thou the King of the Jewes?* He returned no other Answer then: *Thou saiest it: Why askest thou me?* Aske them that heard me, That is, Aske witnesses. It was objected against the Oath *ex Officio*, That it was High Injustice to examine a man against himselfe: Because his Answers may only serve to condemne, but not to acquite him.

2. They usually breake open houles with Souldiers, at all howers of the night pulling men out of their beds with great violence and Terror, and so carrying them away, under pretence whereof Robberies & Murders have bin committed. Whereas by the Stat: 1. Ed. VI. chap. 12. and 5. and 6. Ed. VI. chap. 11. A man ought not to be accused of High Treason but to one of the Kings Counsell; or to one of the Kings Iustices of the Assize; or to one of the Kings Iustices of the Peace being of the *Quorum*: or to 2. Iustices of the Peace where the Offence is committed. Cookes 3. Inst. chap. High Treason. pag. 26. 27. 28.

3. They Commit men to prison without any Accusation or Accusor made knowne, and during pleasure: & deteine them in prison many yeares together without any Legall proceedings or Charge against them; sharing their Estats, Offices and Revenues (by Sequestrations & Suspensions of the Profits) amongst themselves; without any Crime objected: And so leave them to starve, rot and dye in nasty Gaoles for want of Maintenance, under the cruelty of covetous and merciles Gaolers, whom they beare out (for mony) in all their Extortions. And being thus imprisoned and wounded with the displeasure of the State no man dares adventure, upon any security, to lend him mony for feare of incurring the disfavour of

of the State, and a Note of Malignancy, whereby their Prisons are become private Slaughter-houses, as well as their Courts Publike shambles of Injustice. Prisoners in the Tower of London (To which prison no Gaole delivery belongs.) were allwaies wont in the time of (that supposed Tyrant) King Charles I. and his Predecessors, to have allowance from the King, according to their severall degrees; As <sup>s<sup>l</sup>.</sup> a weeke for an Esquier &c. although the King deprived them of no part of their Estates untill conviction, and this Maintenance was provided for them by the Lieutenant of the Tower; and in respect of his care and paines in procuring it he had Fees; and not otherwise; though now they continue and encrease the said Fees; the cause being taken away the effect ceaseth not. But these men now in power, after they have Committed men and robbed them of their Estates, without cause shewen; are so farr from giving them any allowance to feede them; that they shut them up close Prisoners in unwholsome chambers, denying them the Liberty of the Tower, and the benefit of fresh Aire (the Cameleons Diet) for their health; and resort of friends, for their accomodation. And that they may be sure to deprive them of all legall meanes by habeas corpus to recover their liberties; They Commit men by illegall warrants not expressing any particuler Offence or cause for their Commitment: so that it is impossible for the keeper of the prison to obey the *habeas corpus*, which is directed to him in these words: *Præcipimus tibi quod corpus A. B. unâ cum causa detentionis sue, habeas coram nobis &c. ad recipiendum ea quæ iurâ nostra, &c.* Whereupon the Gaoler or Sheriffe is to bring his Prisoner to the Barr; and tender his *mittimus* to the Court,

Witness about 3000. Scottish Prisoners of warr starved to death at Durham: where they ate one another for hunger. These were taken at the battle of Dunbar an. 1650. 3. Sept. and many hundred Prisoners have bin murdered in Gaoles, with hunger, cold, nastines and contagion: after they have bin robbed of there Estates and no Crime laid to their Charge: This is now become a daily practise.

shewing the particuler cause of his Imprisonment, that the Court may judge whether it be Legall, or no. *Dolosus versatur in Generalibus*. In the Acts of the Apostles chap. 25. vers. 26. 27. *Festus* thought it unreasonable to send *Paul* a prisoner to *Cesar* (to whom he had appealed) and not withall to signify the Crimes laid to his Charge. See *Cookes* 2. Instit. fol. 591.

4. Their usuall Course of practising and suborning witnesses, tempting them with hopes and terrifying them with feares, is so notorious; That it is knowne the Counsell of State have hundreds of Spies and Intelligencers, *Affidavit-men* and *Knights of the Post*, swarming over all England as Lice and Frogs did in Egypt: and have both *Pensions* and set rates for every polle brought in: So that now the whole Nation is proscribed, and every mans head set to sale, and made a staple commodity, (farr beyond the definite Proscriptions of *Silla* & the *Triumvirate* aforesaid) These sonnes of *Beliall* are sent forth to compassse the earth seeking whom they may devour. These, (with the Liberty of Priviledged Spies) speake bolde language to drawe other men into daunger: and plot conspiracies, which themselves detect and are rewarded like Decoy Duckes for their paines. Of this sort are *Bernard* and *Pins* set on worke to betray *Gell* and *Andrewes*, as aforesaid. For which *Bernarde* had 300 l. and a Troupe of horse conferred upon him. *Johnson* that falsly accused *Sr. Rob. Sherly* and *Col. Egerton* for their charity in releiving his wants, is another; *Varney* is a Fourth. So well are they fitted with these Sonnes of *Belial*, that no *Naboth* can keepe his vinyarde, if a *Grandee* cast a covetous eye upon it; they can prove what they list. Nay it is usuall for our *Grandees* to molest one man with examining



examining him 20. or 30. severall times, against one Prisoner, and upon one point, to distract his memory, and not to let him be quiet untill he perceive, He must speake what their questions & discourses lead him to, to redeeme himselfe from vexation. To say nothing of their Menaces, To torture men if they will not confes, what they impudently pretend is already discovered by other meanes: And their insinuating into the Affections of witnesses, by asking them: Whether the State doth not owe them mony? And why they do not use fitting meanes and opportunities to recover it? And why they do not make meanes for some beneficiall employment?

5. In *Magna Charta*, chap. 29. it is enacted. *That no Freeman shall be taken or imprisoned; or be disseised of his Freehold, or Liberties or Free Customes, or be outlawed or exiled, or any otherwise destroyed; nor wee will not passe upon him or condemne him, but by lawfull Judgement of his Peeres, or by the Lawe of the Land. Wee will sell to no man, wee will not deny or deferre to any man, Iustice or Right.* See Statut. 2. Ed. III. chap. 8. 5. Ed. III. chap. 9. 14. Ed. III. chap. 14. 25. Ed. III. chap. 4. 11. R. II. chap. 10. Pet. of Right. 3. Car. 1. 10. Ed. IV. fol. 6. Dier. fol. 104. Cooke lib. 5. fol. 6. lib. 10. fol. 74. lib. 11. fol. 99. Regist. fol. 86. Where note the word (*Peeres*) signifies, that no man is to be condemned or destroyed, but by the lawfull verdict of a Jury of 12. sworn men of the Neighbourhood where the Fact was committed; because (in probability) Neighbours may have best cognisance of the Fact; and of the life and conversation of the Party Accused. And these only are *Competent Iudges of Matter of Fact*; and in many cases of Matter of Lawe too, if they will take the

knowledge of the Lawe upon them. Neither can this Petty Jury of 12, men goe upon the Prisoner, unless a *Bill of Enditement* conteyning the whole Matter of charge be first found in open Court by a *Grande Jury* or Enquest of sworne men; who are to enquire of the Fact upon the Oathes of two lawfull witnesses (at least) to every materiall Point of the Enditement & then, when the *Grande Enquest* are all agreed, the Foreman endorseth upon the backe of the *Bill* (*Billa vera*) and then presents it in open Court, as the Information for the King of the whole Enqueste: otherwise the Enditement is quash't, and nul. Cooke's 3. Instit. chap. High Treason and Petty Treason. And whereas the Statut. saith, (but by his Peeres, or by the Lawe of the Land) *Lex Terra*, signifies, The Auntient Customes of the Land; Amongst which Fundamentall Customes; Trialls by Iuries hold a principall place. And when the King Charles I. accused this Parliament, That they disposed of the Subjects Lives and Fortunes by their votes, contrary to the knowne Lawes of the Land, This Parliament in their Remonstr. Sept. 1642. (1. Part. of the Booke of Declarations fol. 693. highly resented it. And *Magna Charta* being nothing else but an Affirmation of the Common Lawe, inserted this Clause. (or by the Lawe of the Land) as a speciall caution, not to annihilate or frustrate (no; not so much as tacitely, or by preterition) any of the said Fundamentall Lawes or Customes; nor any other particuler lawfull Customes, which are not one and the same in all parts of England: Witnes the Custome of *Gavelkinde* in Kent. I have told you what our knowne auntient Legall Courts of Iustice do. And I must tell you that *Legall formes and set Modes of proceedings* are

so essentiall unto Iustice, that without them wee can not measure the Rectitude or Obliquity of Iustice or Injustice : where they do not chalke forth the way, both Iudges, Lawiers, Officers and Attorneys will tread what subtile, obscure pathes they please, usurpe an Arbitrary power and latitude to prevaricate ; and so farr corrupt and worke the Lawe to their sence, that they will rather *Leges dare*, then *Leges dicere*, so that what is Lawe in one mans case, shall not be so in another mans, They will so intricate and intangle causes ; that every case shall be *Casus pro amico* ; as Civilians call it ; when upon full hearing, The Merits of the cause appeare so equall, and undistinguishable on both partes ; that the Iudge may ( according to his discretion ) looke upon the Merits of the Persons only : and give the cause ; *Pauperiori, via Charitatis*, or *digniori, ratione virtutis*. Justice not fixed by Formalities, will become such a vagrant, that no man shall knowe where to find her. Let us now see what our new shanibles, our upstart High Court doth. Which in this worke of Reformation and Destruction, so much abhorres Superstition and Ceremonies, and stickes so close to a Summary way of proceeding, that they have not only stripped, but flead her : as their Masters the Parliament not only fleece but flea the People. In lieu of a Bill of presentment, by a Grande Enquest, the pretended Parliament or Counsell of State, send a List of such Persons names, as they have proscribed, And set a *Nigrum Theta* upon, ( as men daungerous to their designed interest ) to the Masters of their Slaughterhouse, The said High Court, together with such Depositions as they have taken in corners, against the Prisoners : and this is such a forejudging of them, that the said Court neither will nor dare acquite, whom

their Masters and Pay-Masters have precondemned. Next *Articles of Impeachment* in nature of a charge are drawne up against the Prisoner ( although such Articles are nothing in Lawe, which regards only a Bill of Inditement ) Then the prisoner ( after a close Imprisonment for he knowes not what ) upon two daies warning is ledd to the Barre ; where the first worke is to dazle his eyes , amase and distract his Iudgement and Memory which the terror of their Souldiers , the Numerousnes, high affronting words and lookes of his Iudges ; haveing thus mortified the prisoner , he is commanded to heare his charge read: and bid *pleade to it . Guilty ; or not Guilty .* If he owne their Iurisdiction and pleade the said Generall Plea , they have him where they would have him : they never aske him ; how he will be tried ? Whether by God and his Country ? For God hath no hand in these proceedings, nor amongst such Iudges: & this rodd of Iron is provided to bruise his Country, as well as himselfe . Lieutenant Col. *Lilbornes* Triall hath taught them That it is an easier Matter for them to packe a Butcher-Rowe of confiding , partiall Iudges, then a Iury ; who are liable to be challenged , if suspected of partiality . When Col. *Andrewes* claimed to be tried legally as a Freeman by a Iury and vouched Great Charter , and many other Statutes , ( wherof see his aforesaid 3. Answeres ) that sneaking Bloud-sucker , illiterate *Keeble* answered . Those Statutes were out of date now , ( meaning , They were taken away by conquest , ) So that this *Shamble Rowe* of Judges , take upon them to be , both Judges of the Lawe , ( without acknowledging the Fundamentall Lawes of the Land, or taking any Oath of Indifferency to the People ) *Triors of the Fact , or Jurates*

*Jurates of life and Death* ( without being sworne to find according to Evidence ) as well as *Parties and Prosecutors*. Theeves upon the high way may as justly arraigne a True man before them , because he brought no more Mony in his purse , offered to draw his sword and hid his mony about him in contempt of their Jurisdiction and Authority ; & condemne him upon such a Mocke Triall and Mummery or Enterlude of Iustice , as these Fellowes. If they allowe him Counsell , his Counsell must apprehend the mindes of his Iudges , at his perill ; and not be so faithfull and diligent as to helpe his client in earnest ; Least the Counsell of State, or some other power ( whose will is a Lawe ) interpose , and bannish him 20. miles from London; as they did Master Sprat, S<sup>r</sup>. John Gells Sollicitor, before S<sup>r</sup>. Iohns Busines was ended; whereby S<sup>r</sup>. Iohn was left destitute of meanes to followe his busines , himselfe being Close Prisoner. If they permit any *witnes to speake on the prisoners parte* , He comes at his perill : S<sup>r</sup>. Iohn Gells first witnes was so baffled in Court , that the rest stole away and durst not appeare. I have not heard whether they give any Copy of their Articles of Impeachment to the Prisoner , ( for they cover all their doings with such a Plaguy Egiptian Darknes , that wee cannot see a glimpse of light ) or whether they goe a Starre Chamber way, and make him Answer Ore tenus , and ex tempore for his life and Estate. But if they give him any Copy , or any time to Answer, it is not above 4. or 5. daies , or a weeke , nor do they allowe him Counsell , or any other Cleering of the way to his defence , untill he have ensnared himselfe by owning their Jurisdiction , and pleaded the Generall Plea , Not Guilty. If he pleade not an Issuable Plea , and yeald to their Jurisdiction , quitting all benefite of the Lawe and Legall proceedings ; the Razor is at his throate,

they thirst after his Blood ; and they presently sentence him guilty of contumacy & take it pro confesso. And if he do submit and pleade : His plea will have the operation but of a Psalm of Mercy, prolonging his life but for a short time , in the interim Keeble & his Court plaies with him as a Cat doth with a Mouse, and then devoures him. For no man is sent to this Court to be Tried, but to be condemned. *In hac arena dimicatur sine missione.* Herein they shew themselves much more Tirannous and bloody then the Duke D'Alva when he erected his said Counsell of Troubles , called *Concilium Sanguinis*, or the Bloody conventicle ; as this will shortly be. For saith Strada Declar. 1. lib. 7. *Procurator regius menses 4. Consicienda Accusationi accipiens sibi ; 5. Concedebat ad Defensionem reis ( Egmontio , Hornano , &c. )* The Kings Atturney tooke 4. Moneths time to drawe up the charge or Accusation , and gave 5. Moneths time to the Respondents to make their defence . And had he given lesse then 5 . Moneths time, To Instru& Counsell , Pen their Answers , produce and summon witnesses, inquire into the lives and conversation of their Accusors , his feete had bin swift to shed Blood. *Nulla unquam de morte hominis cunctatio longa est,* But our Inquisitors take whole yeares to themselves to hunt for Matter of Accusation and hire and engage witnesses , against men kept in ignorance and want with close Imprisonment : and allowe not them so many daies to make their Defence . All manner of Accusors and witnesses , though apparently suborned and forsworne in the same cause , and proofes without exceptions offered to the Court that they are of infamous life and conversation, are in this Court ( the Object of whose desires are Blood & Confiscations , not Iustice ) lawfull witnesses , such witnesses were the said Bernard and Pits ; Monsters of men.

See S<sup>r</sup>. John Gells case stated : Printed about August, 1650. To Cite any *antient*, *knowne Lawes* or *Statutes*, or any other then their *owne new coined Acts*, passed by this 8<sup>th</sup>. Part of a House of Commons, (since they became elect Members chosen by Thomas Pride) is to incurre the High Indignation of the Court, expressed abundantly in their words and looks. But to put them in mind of the Parliaments many Declarations, To maintaine the *antient knowne Lawes*, *Liberties* and *Properties* of the People, is to scandall the present Government & incurre the Censure of that unknowne, *Mysterious Crime* which knaves call, *Malignancy*. The witnesses and Iudges being thus irrefragable; the first may sweare what they will; the second may judge what they will, since they are left at large and have all things *in scrinio pectoris*: and Booke Lawe must give place to Bench Lawe, The Jurisdiction and Authority of this New, unparaelled Court is such a *Mystery of iniquity*, so unscrutable and unquestionable, that if a Prisoner scruple (in the least) either it, or any of the uncouth proceedings of it; it is a Mortall Sinne to him; and he is presently interrupted, and affronted both with disdainfull words and looks. And told, *Wee are satisfied with our Authority that are your Iudges*, (So are Theeves upon the high way satisfied with their Authority that robb and murder us by Gods Providence and permission.) *It is upon Gods Authority and the Kingdoms* (yet what they do is against the will of God revealed in his Scriptures: and against the knowne, established Lawes, Statutes and continuall Practise of the Kingdom:) *Which Authority commandes you in the name of the People of England to answer them.* (Yet at least) 9. Parts of 10. Of the People so much abhorre these & other their Practises that every mans mouth speakes against them with bitter curses & reproches,

See the  
Triall of  
King Cha.  
I. in the  
History of  
Independ-  
ency 2.  
Part. pag.  
21. &c.

to restraine which they have minted Acts of New Treasons, to make men Offenders, nay Traitors, even for bare words; and erected this bloudy, illegall Theater, The High Court (so called, for its High Injustice) as a Spanish Inquisition over them, & every mans hand would be about their eares, did they not keep an Army of Ianifaries to suppress them.) *Their Authority they do avowe to the whole World, that the whole Kingdom are to rest satisfied therewith.* ( You see heere a Whipp and a Bell provided to keepe the whole Kingdom in awe: the declared Supreme power of their Sovereine Lord the People, must resigne their knowne Lawes to their Trustees, their Representatives in Parliament, and take New Lawes from their Arbitrary votes, or woe be to their Necks and Shoulders) *I must interrupt you, what you doe is not agreeable to the Proceedings of any Court of Justice. You are about to enter into Argument and dispute concerning the Authority of this Court; before whom you appeare as a Prisoner; you may not dispute the Authority of this Court: nor will any Court give way to it, you are to submit to it.* ( It is not safe to confute a lie told with Authority. Yet if a man be Endited of Treason or Felony in the Court of Common Pleas, a man may Demurre to and dispute the Iurisdiction of that Court; because it is not in Criminall Causes, *Competens Forum*; nor the Iudges Competent Iudges: every man, and every cause must be tried *Suo Foro, non Alieno*. So if a Peere be arraigned in the Kings Bench. And for this upstart, unpresidented High Court; it is no Court of Iudicature at all; as being erected without lawfull Authority; Consisting of Incompetent Iudges: no Recordes belonging to it: and tending to disinherit, and disfranchise all the People of England:



land, and to murder them.) *You may not dispute the Jurisdiction of the Supreme and Highest Authority of England, from which there is no Appeal, The votes of the Commons of England assembled in Parliament is the Reason of the Kingdom.* (Oh Brutish, irrationall Kingdom! Where 40. or 50. Anabaptisticall Members, the Dregs and lees of the House of Commons, after all the best and sincerest (7. Parts of 8.) had bin racked and purged out at the Bunghole by Cromwell the Bruer and Pride his Dray-man shall be called the Reason and Lawe of the Land. This confirms the truth of what King Charles I. Objected to the Parliament (whereof I have formerly spoken (*That they disposed of the Subjects lives and Fortunes, by their owne votes, against the knowne Lawes of the Land.* But that there should be no Appeal to their declared Sovereigne Lord the People, from their subordinate Trustees in Parliament is wonderfull; Considering that in all Governments The last Appeal is ever to the Highest & most Absolute power. But it may be they will be the Peoples Trustees in spite of their Teeth, and by the power of the Sword; and so free themselves from rendring any account of their Stewardshipp.) *You may not Demurre to the Jurisdiction of the Court. If you doe, they let you knowe, that they overrule your Demurrer, and affirme their owne Jurisdiction. Reason is not to be heard against the Highest Jurisdiction, the Commons of England, make a direct & positive Answer, either by denying or confessing, & put in immediately an issuable Plea, Guilty, or Not Guilty of the Charge, or wee will recorde your Default & Contumacy, & by an implicate confession take you Guilty pro confesso, & immediately give Iudgement against you.* (This (as I told you before) is it that blanches the Decree into the Toile, But God deliver us from that

F 2

Jurisdiction

Jurisdiction that is to high to heare Reason : and that overrules Demurrers before they be heard.) I have told you as much of the proceedings of this Court as the Novelty, Obscurity, vncertainty and confusion there of will give me leave. Let me now ( by way of overplus ) give you the great dangers and Slavery that will befall all sorts of People if they tamely & cowardly suffer themselves to be deprived of their auntient, Legall Trialls by Enditement and Iuries of the Neighbourhood: (then which the whole world can not boast of a more equall way ) and suffer their lives, Liberties, Estates and Honors to be subject to an Arbitrary, Extrajuditiiall conventicle of Bloud, (*Cromwells New Slaughterhouse*) which hath neither Lawe, Iustice, Conscience, Reason, President or Authority Divine or Humane, but only the pretended Parliaments irrationall votes and the power of the Sword to maintaine it, which will prove a Cittadell over their Liberties, a Snare to their Estates, a Deadfall to their lives and a Scandall to their honors and Families, if not timely opposed.

1. *By the Lawe The Enditement must specify what the Treason is, and against what Person committed; As, against our Sovereaine Lord the King, his Crowne and Dignity.* But in the said Articles of Impeachment, it is alleaged that the Treason is committed against the present Government; or, against the Keepers of the Liberties of England; but in this dead-water our turning Tide betweene the old Regall, and this New, unknowne Government; no man knowes how to doe, looke or speake for feare of contracting the guilt of an Interpretative Treason, upon the said two Statutes for New Treasons, & before this boundles, lawles New Court.

Court. And to say that Treason is committed against a Government in abstracto is Non-sence: it must be said that Treason is committed against the Governors in Concreto, naming them. For their being, no Treason without Allegiance; And Allegiance being a personall Obligation, must be due from a certaine knowne Person, to a certaine knowne Person or Persons. And therefore the Keepers of the Liberties of England, not being yet made particularly knowne to us, who they are, or where to be found, or what their power, Duty or Office is; and being not tied by any set Oath, to deale well and truly with the People, (as Kings are by their Coronation Oath; for if the stipulation be not mutuall, the People are Slaves, not Subjects.) since the Duties of Allegiance and Protection; Obedience & Command being reciprocall (as they must needs be, the Parliament having declared the Supreme power to be in the People; they must not governe them *Mero Imperio* (by lawles votes) like Turkish, Tartarian and Russian Slaves.) I can not owe nor performe Allegiance to those *Individa vagi* (the Keepers or Gaolers of our Liberties) nor to an Utopian Commonwealth. And without Allegiance no Treason: for in all Enditements of High Treason it must be alleaged. That the Accused did (*Proditorie*) perpetrate such and such Crimes; *Contra debitam Allegantiam suam*. And the word (*Proditorie*) signifies the betraying of a Trust: According to the Proverbe; In Trust, is Treason. Now where there is no profession of Allegiance, there is no Acceptance of a Trust, no man can trust me against my will. I was borne under a Regall Government have read the Stat. Recognition, i. Jac. Have taken (as well as others) the Legall Oathes of Allegiance, Obedience and Supremacy to the King his Heires and Lawfull Successors: imposed upon me by lawfull Authority, and from which no

power on Earth can absolve me : and so much I attest in the Oath of Supremacy. And how I should now come (after the New Moduling of the Parliament and Kingdom by Souldiers) to owe Allegiance to Cromwell the Bruer, Scot the Bruers Clerke, Bradshawe the Murderous Pettyfogger, Sr. Hen. Mildmay the Court Pander and Projector, Holland the Linckeboy, John Trencharde that packed a Committee ( in which he was a Member ) and voted to himsele 2000<sup>lb</sup>. Love the super-inducted Sixe Clerke, or any other of that Self-created Authority, let them sheath their swords and tell me.

See the  
Addition-  
nell Post-  
script at  
the Latter  
end of  
this Booke.

2. *An Enditement must certainly allege the Offence committed, in respect of the Matter, Time, Place, Persons and other Circumstances ; But in these Articles of Impeachment they tie themselves to no such certainties ; Whereby the Accused knowes not at what ward to lie, nor how to make his Defence. The Circumstances of Time, Place, and Persons, being tbe assured Testimony of all Humane Actions. This Lawles Court leaves him in a vast Sea of Troubles, without Polestarre, carde or compasse to sterre by: The Arbitrary Opinions of this Court, declared upon emergent Occasions, being a falsehearted Pilot to him. These Judges not being of Counsell with the Prisoner, as our Legall Judges are, who sweare to do Iustice according to the Lawe.*

3. *By the Lawe, any learned man that is present, may informe the Court ; for the benefit of the Prisoner, of any thing that may make the proceedings erronious. Cookes 3. Instit. pag. 29. But the whole Proceedings of this Court, their Meeting and sitting being erronious, heere is no roome left for Admonition. To take away their errours, is to take away the Court.*

4. Cookes

4. Cooke's 2. Inst. pag. 51. expounding the 29. chap. of *Magna Charta*. hath these words. *All Commissions ought to be grounded upon the Lawe of England.* (not upon the votes of the House of Commons ) and to containe this Clause in them. *To do what is just according to the Lawes & Customes of England.* ( not to execute the severall powers given them by the Act. 26. March 1650 ) and a little further he saith. Against this Auntient & Fundamentall Lawe I find an Act of Parliament made 11. Hen. VII. chap. 3. That as well Iustices of Assize as Iustices of the Peace, without any finding or presentment by the verdict of 12 men, upon a bare Information for the King before them made, should have full power and Authority by their Discretions, to heare and determine all Offences and Contempts committed, or don by any Person or Persons, against the Forme, Ordinance or effect of any Statute made and not repealed; saving Treason, Murder or Felony. By colour of which Act shaking this Fundamentall Lawe, it is not credible what horrible Oppressions and Exactions, to the undoing of infinite number of People, were Committed by Empson & Dudley Iustices of the Peace throughout England. And upon this unjust and injurious Act, a New Office was erected ( as commonly in like cases it falleth out ) and they made Masters of the Kings Forfeitures. (I heare such an other Office will be erected, when the Noveltie of this wonderfull High Court is lessened, & the yoke thereof througly seiled upon the Peoples Necks ) Yet observe the said Act 11. Hen. VII. cha. 3. went not so high as to Treason, Murder and Felony ) But by the Stat. 1. Hen. VIII. chap. 6. the said Act 11. Hen. VII. was repealed, & the reason given, For that by force of the said Act it was manifestly knowne ; That many sinister and crafty, forged and feigned Informations

formations had bin pursued against many of the Kings subjects, to their great dammage and wrongfull vexation. The ill successe heereof (saith Cooke) and the fearfull end of these two Oppressors, (who weare Endited and suffered for High Treason for all the said Act 11. Hen. VII. passed in a full & Free Parliament. Cookes 3. Instit. pag. 208.) *Should admonishe Parliaments, That in stead of this Ordinary and pretious Triall by the Lawe of the Land, they bring not in Absolut and Partiall Trialls by Discretion. And in his 4. Inst. pag. 41. Cooke saith. Let Parliaments leave all Causes to be measured by the golden and streightned wand of the Lawe, and not the uncertaine and crooked corde of Discretion: for it is not almost Credible to foresee, when any Maxime or Fundamentall Lawe of the Land is altered, what dangerous inconveniences will followe; as appeares by this unjust and strange Act 11. Hen. VII. chap. 3.*

5. *This Parliament alwaies declared they bore Armes against the King, in Defence of the Lawes, Liberties and Properties of the People. This way ranne the whole current of their Declarations. And they alwaies reckoned Magna Charta, the Petition of Right & Trialls by Iuries, the Chiefe and most Fundamentall of all our Lawes. See their 1. Remonstrance: Therefore in their 7. Article against Strafford. They charged him with High Treason, for giving Judgements against mens Estates, without Trialls by Iuries. Much aggravated by Master St. Iohns in his aforesaid Argument against Strafford. And for the better preservation of Legall Trialls by Iuries, it is provided in the Bill of Attainder of Strafford, that the case of the same Earle should not be used as a President in succeeding times. And in two of this Parliaments late Declarations 9. Febr. and 17. March 1648. The Parliament promiseth.*

To preserve and keepe the Fundamentall Lawes of the Land, for preservation of the Lives, Liberties & Properties of the People, with all things incident thereto. Now to erect an Arbitrary, Lawles High Court, to give Judgement against mens lives and Estates, and attaint their blouds, without Enditement found by a Grande Jury, and a Triall by a Jury of 12 sworne men de vicineto; is a farr fouler breach of Trust in them against their So-veraign Lords the People, then all they Charged the King withall; and a farr Higher Act of Tiranny and Injustice then either the late King; or Empson and Dudley or Sirafford weare accused of. But if they alleage: They do not put downe Juries in Gene-rall, but only in some particuler mens cases, and upon Necessity.

I. Answer. That wee are all borne Freemen of England alike; That our Auntient knowne Lawes, Lawe Courts and Trialls by Juries are our Inheritance equall alike to all. And one Party or part of the People ought not to be disherited, disfraunchised or fore-judged no more then another. No man can be said guilty of any Crime untill he be legally convicted and sentenced: the Lawe must first goe vpon him and condemne him. *Vbi lex non distinguit, non est distinguendum.* If wee do not live all under one Lawe and forme of Justice, wee are not all of one Commonwealt. See the afore mentioned Gentlemans Argument, against the Speciall Commission of the Court of York. For Ne-cessity: Our present power is under none: but the feares and Terrors of their owne guilty consciences. No apparence nor probability of any enemy by their owne confession: nor can they pleade in their ex-cuse, a Necessity which they have brought upon themselves. I know some Kings have, de facto, used the Animadversion of the Sword to cut off such powerfull & dangerous Persons as could not safely be called to account by the Lawe; so died Ioab, Adoniah, &c. For which the rule is. *Neminem adeo eminere debere, ut Legibus interrogari nequeat: qui Jus*

*aquum ferre non potest*, in eum vim hand in justam fore. No man ought to advance himselfe above the power of the Lawe: He that will not submit to equall Right, if he be cut of by violence, suffers no wrong: But this is to be understood of the Eminency and greatnes of the Person, not of the greatnes of the Crime; whereof no man is to be fore-judged; because a great Crime may prove a great Calumny, untill a Legall Triall have adjudged it. But there is no Person in England so eminent for power or Authority, but that the least of Bradshawes Bandogs can drive him to the Slaughter-house and make him offer his throate to Keeble. Therefore *Animadversio Gladii*, if at any time lawfull, is now unlawfull. To make great examples, upon men of little power, is great Injustice. But the way of this Court, is not *Animadversio per Gladium*. It is a Mocking, a Counterfeiting, an Adulterating and Alchimisting of Iustice: it is to falsify her waights and Ballance, and steal her Sword to Commit Murder withall.

See Col.  
Andrewes  
3. Answer-  
res.

6: By the knowne Lawes Matter of Fact is entrusted to the Iury; Matter of Lawe to the Iudges; to prevent all Errors, Combinations and Partialities. The Iudges are sworne to doe Iustice according to the Lawe; The Iury are sworne to find according to their Evidence. But in this High Court the Commissioners or Iudges are all packed, Confinding men, chosen by and out of one Party, to destroy all of a different Party. They usurpe the Office of Iudges not being sworne to deale well and lawfully with the People (as by the said Stat. 18. Ed. III.) nor to do Iustice according to the Lawe. But only to execute powers given by the said Act 26. March 1650. And they arrogate (as Iury men) to be Triors of the Fact, without being sworne, To find according to Evidence. So that they are Iudges, Juries and Parties, and (for ease of their tender Consciencs) without any Oath of Indifferency.

A most



A most excellent Compendium of Oppression. They may goe to the Devill for Injustice, and not be forsworne. Great is the Privilege of the Godly.

7. *The Prisoner may except against his Iurers, either against the Array, if the Sheriffe or Bailly impannelling the Jury, be not wholly disingaged and Indifferent; both to the cause, and to the Parties, Prosecuting and Prosecuted. Or against the Poll, he may Challenge 35 peremptorily; and as many more as he can render Legall Cause of Challenge for. As for defect of Estate, or other Abilities, or for Partiality, Disaffection, Engagement, Infamy. But this Array of Iurymen-Iudges (A Medley so new wee knowe not how to expresse it) though picked and empanelled by an Engaged Remainder of the Commons, and obnoxious to all exceptions, must not be Challenged, their backs are too much galled to endure the least touch. Take heede you scandall not the Court (cries Master Attorney) See Col. Andrewes 3 Answeres.*

8. *Many Exceptions in a Legall Triall, are allowed against Imperfections, Vncertainties and Illegallities in the Bill of Enditement, for the advantage of the Prisoner. But no Exceptions are allowed against these Illegall Articles of Impeachment; which are made uncertaine, intricate, obscure & ambiguous purposedly to puffle confound and entangle the Respondent.*

9. *By the Lawe a Bill of Enditement must have two full and cleere lawfull witnesses to every considerable Matter of Fact; both at finding the Bill and at the Triall. Cookes 3. Instit. pag. 25. 26. And Probationes debent esse luce clariores. Proofes must be as cleere as the Sunne; not grounded upon Inferences, Presumptions, Probabilities. And the Prisoner must be Provablenient Attaince. saith the Stat. 25. Ed. III. chap. 2. Cookes 3. Instit. pag. 12. The word*

Where there is but one witness, It shall be tried by combat before the Earle Mar-  
tiall.  
Cooke  
ibidem.

(*Attainted*) shewes he must be legally proceeded with: not by absolute power as formerly had bin used (and as is now used by this bloody High Court) But before these Slaughter-men of the High Court, all manner of witnessies, Legall or Illegall, one or two, sworne or not sworne, or apparently forsworne and suborned; and all proofes cleere or not cleere are sufficient. The Prisoner is sent thither fore-doomed, and hath his deathes Marck, his fate in his forehead.

10. The said Act 26. March 1650. Carries two faces under one hood; and looks backwards as well as forwards. To facts Precedent as well as Subsequent the said Act, Contrary to the Nature of all Lawes, whose Office is to prohibite before it punish, to warne before it strike Where St. Paul defineth Sinne to be The breach of a Commandement, or Lawe. I had not knowne Sinne but by the Lawe. The Lawe must therefore be precedent to the Offence. But these Acts are not Lawes to admonish, but Lime-twigges and Trappes to ensnare & Catch men: See Col. Andrewes 3. Answers at the Latter end of this Booke.

Fourthly and lastly I am to consider. To what end and purpose this New invented High Court is constituted and appointed? Concerning which see a Letter dated 6. Iune 1650. *Stilo veteri*, from the Hague. (supposed to be *Walter Strick-lands*, the Parliaments Agent there) as I find it in *Walter Frostes* Brief Relations of some Affaires and Transactions &c. from Tuesday Iune 11. to Iune 18. 1650. wherein the Epistoler hath these words.

One peece of the cure (viz: of the daungers that threaten your New State) must be Phlebotomy, but then you must begin before Decumbency, and then it will be facile to prevent danger, &c. They are heere most of all affraid of your High Court of Iustice, which they doubt

doubt may much discourage their Party, they wish “ you would not renewe the power thereof, but let it “ expire: then they think that after Michilmas they may “ expect Assistance with you. And indeede that Court “ is of all most as much use to you as an Army: and will “ prevent the rising of as many enemies, as the other “ will destroy, only you must be sure to execute Iustice “ there with all Severity. A few of the first stirrers taken “ away by the power thereof, without respect to counsen “ or Country will keepe all the rest quiet. But *whosoever “ that Court condemns, let them be as allready dead, &c.* But let “ them be most free in cutting the vena Cœphalica (that is the Pres- “ biterian Party) for the Basilica (or Royall Party) will “ be latent. The Median (or levellers) would be spared “ as much as may be, that the Body be not too much “ emaciated. Besides the blood is most corrupt in the “ Cœphaliks (or Presbyterians) and is the very *causa con- “ tinens* of your disease, You neede not feare to take “ freely of this veine, &c. Heere you see this State- “ Mountebanke gives you the use and Application of “ this corrasive. [the High Shambles of Iustice) so “ fully that I shall not neede to comment upon it. And “ in the Latter end of a Letter from Cromwell, dated “ from Dunbar 4. Sept. 1650. (as I find it in *Politics*) “ speaking of his new purchased victory over the Scots. “ Cromwell saith; *God puts it more and more into your hands to “ improve your power, (viz: your Absolute Authority) we “ pray owne his People more and more, (that is; The Army) “ they are the Chariots and Horsmen of Israell (of the King- “ dom of the Saints) disowne your selves but owne your Autho- “ rity (which you enjoy under the Protection of the “ Army, your Lords Paramounte) and improve it; to Curb “ the Proud and the Insolent, &c.* (That is all men of

different Opinions & Parties from them; that will not engage to be true & owe Allegiance to the Kingdom of the Saints, and resigne their Lawes, Liberties and Properties to their lusts & wills) That I have not misconstituted the contents of Cromwells mitticall letter will appeare by a *Discourse in the same Politicus Numb. 17. from Thursday Sept. 26. to Octob. 3, 1650.* Where (according to his Custome) delivering forth State Oracles to the People: He tells them in plaine English. *That after the Confusions of a Civill warr, there is a Necessity of some Settlement, and it can not in reason, be imagined, (the Controversy being determined by the Sword) that the conquerers should submit to the conquered, though more in number then themselves. Nor are they obliged to settle the Government againe according to the former Lawes; and Constitutions, but may erect such a forme as they themselves conceive most convenient for their owne preservation. For after a Civill warr the written Lawes (viz: established Lawes of the Nation) are of no force, but only those which are not written. (And a little after) The King having by Right of warr, lost his share and interest in Authority, and power, being conquered, by Right of warr the whole must needs reside in that part of the People which prevailed over him: There being no middle power to make any claime, and so the whole Right of Kingly Authority in England being by Military Decision resolved into the prevailing Party, what Government soever it pleaseth them to erect, is as valide de jure, as if it had the consent of the whole Body of the People. That he should affirme That after a Civill warr the Established Lawes cease: is so grosse a peece of Ignorance that there is hardly any History extant but confutes it; After our Barons warr and the Civill warr betweene Torke and Lancaster, Our Established Lawes*

Lawes flourished ; so did they after the Norman Conquest. How many Civill warrs in France have left their Lawes untouched ? that of the holy league lasted 40 yeares , *Belgia* keepes her Lawes maugre her intestine warrs ; What is now become of the Parliaments declared Supreme power and Sovereaine Lord the People , the Originall and Fountaine of all Iust power ? are they not all heere proclaimed Eare-boarded slaves for ever . But I had thought that an Army of Mercenary Saints raised , paied and commissioned by the Parliament to defend the Religion , Lawes , Liberties and Properties of the People ; and the Kings Crowne and Dignity , according to the Protestation & Covenant : and the Parliaments Declarations , would not have made such Carnall and Hypocriticall use of their victories gotten by Gods Providence and the Peoples Mony , as to destroy our knowne Lawes , Liberties and Properties , and claime by conquest , and impose their owne lusts , for Lawes , upon us , Thereby rendering themselves Rebels against their God , their King and Country. Nor was it ever the State of the quarrell betweene the King & Parliament whose Slaves the People should be ? Or whether we should have one King, Governing by the knowne, established Lawes ? or 40 Tyrants Governing by their owne lusts and Arbitrary votes , against our written Lawes ? Nor can the success make a conquest just , unles the cause of the warr were Originally just , and the prosecution thereof justly managed.

As 1. To vindicate a Iust Claime and Title. 2. *Ad res repetendas* . To recover Dammages wrongfully sustained. 3. To repell an Injury don to your selfe , or to your Ally in league with you.

The ultimate end of these wicked Endeavours is, To establish and cement with the blood of their Adversaries, the Kingdom of the Brambles or Saints; allready founded in blood. By cutting of all such by their said New Acts of Treason and High Court of Justice, as will not bow their Necks to their Iron yoke. Which appeares more cleerely in an *Additionall Act* giving further power to the said *High Court*, (dated 27. Aug. 1650.) To heare and determine all *Misprisions or concealments of Treasons* mentioned or; contained in any of the said Articles or Acts of Parliaments: And to inflict such punishments and award such execution, as by the Lawes and Statutes have bin, or may be, inflicted. *This Lawe* (if I miscall it not) considering how they have multiplied Treasons by their said 3 New Statutes, 14. May 17. July 1649. and 26. March 1650. Whereby bare words without Act are made High Treason; Contrary to these well approved Statutes. 25. Ed. III. chap. 2. 1. Hen. IV. chap. 10. 1. Ed. VI. chap. 12. I. Mariae chap. 1. Cooke 3. Instit. faith. *That words may make an Heretique, not a Traitor, Chap- High Treason. And the Scripture denounceth a voe to him; That maketh a man an Offender for a word*) is one of the cruelst, and most generally dangerous and entrapping that ever was made. For heereby all Relations; Husband and Wife; Parents and Children; Brothers and Sisters; Masters and Servants are all enjoined to be Informers against, and Accusers of one another (which is to take upon them the Devills Office (and be, *Accusatores Fratrum*) for light and vaine words spoken only in Passion or ignorantly: or else they fall into the Lawes of this alldevouring Court (from whence, no more then from Hell, there is no Redemption) for *Misprision of Treason*: the Penalty whereof is losse of Liberty and Lands for life; and of Goods for ever.

Who

Who can imagine lesse heereby, but that our Statistess intend to raise a yearly revenue by this Court, by Forfeitures and Confiscations: and to erect an Office of Master of the States Forfeitures: like Empsons and Dudleis in Hen. VII. time aforesaid. And so continue this Court, to weede out the Auntient Inhabitants Cananites and Amalechites. The said Additionall Act, 27. Aug. 1650. concludes, That the said High Court shall not examine, Try or proceede against any Person other then such as shall be first by name appointed by the Parliament or Counsell of State. It should seeme the Parliament and Counsell of State supply the want of a Grand Enquest; and their Appointment is in stead of a Bill of Enditement found and presented. *As assuredly as The High Inquisition was erected in Spaine by Firdinando and Isabella to extirpate the Mahometan Moores: And the said Councell of Bloud in the Lowe Countries, by the Duke D'Alva to weede out the Lutherans, Calvinistes and Anabaptistes. So is this High Court set up in England to roote out the Royallistes, Presbyterians and Levellers; and generally all that will not wholly concurre with our Independents in Practise and Opinions. As will manifestly appeare when their worke is don in Scotland, which will soone be effected: the more zealous Scots being now as ready to sell their Kingdom; as they weare formerly to sell their King.*

I Conclude therefore upon the Reasons aforesaid; That because the Commissioners or Iudges are not sworne to do Iustice according to the Lawes: And are Parties pre-in-gaged (as well as their Masters, & Pay-Masters, that named them) ignorant men, and of vild and base professions uncapable of places of Iudicature, Necessitous Persons and some of them Scandalous; and the High Court it selfe hath neither

10. Dec.  
1650. a  
New Act  
passed, for  
establish-  
ing an  
High  
Court of  
Iustice in  
Norfolke,  
Suffolke,  
Hunting-  
ton, Cam-  
bridge,  
Lincolne  
and the  
Isle of  
Ely, &c.  
And so by  
degrees  
this gang-  
grene  
shall en-  
large it;  
selfe all  
the King-  
dom over.

Lawe, President, nor any Iust Authority for Constituting thereof or the Iudges therein. And all proceedings before them are directly Contrary to *Magna Charta*, the Statut. 25. Ed. III. chap. 2. The Petition of Right and all other knowne & Established Lawes, and the continuall Practise of our Nation; and (in many Points) Contrary to the Lawe of God and the Dictates of Right Reason. That these Commissioners are Incompetent Iudges; Their Court an Extrajudiciall Conventicle, tending to disinherit, disfranchise and enslave all the Freemen of the Nation; and all Proceedings before them are voids and *Coram non Iudice*, See Col. Andrewes 3. Answers, The said High Court of Iustice to be a meere bloody Theater of Murder and Oppression. It being against Common Reason, and all Lawes Divine and Humane, That any man should be Iudge in his owne Cause. *Neminem posse in sua Causa Iudicem esse*. Is The Rule in Lawe. But this Parliament and Counsell of State knowe they can not establish & confirme their usurped Tyrannie, (The Kingdom of the Saints,) eat up the People with Taxes, and share Publike Lands, Offices and Mony amongst themselves; enslave the Nation to their Lawles wills and Pleasures, but by cutting of the most able and active men of all opposite Parties by som such expedient as this Arbitrary lawlesse High Court is. The old Legall way by Iuries (being found by John Lilbournes Triall) to be neither sure enough nor speedy enough to do their worke. A Butcher-Rowe of Iudges being easier packed, then a Iury who may be challenged. So that it fareth with the People of England, as with a Traveller fallen into the hands of Theeves. First they take away his Purse, And then, to secure themselves, they take away his life. So they Robbe him by Providence, And then Murder him by Necessity. And (to bring in their Third Insisting Principle) they may alleage; They did all



this upon *Honest Intentions*; to enriche the *Saints* and robb the *Egyptians*. With these 3. Principles they Iustify all their Villanies. Which is an Invention so meerely their owne. That the Devill must acknowlege: They have propagated his Kingdome of Sinne and Death more by their Impudent Iustifications, then by their Turbulent Actions.

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## An Additionall Postscript.

SINCE the Conclusion of the Premises hath happened the Triall of that worthy Knight *Sr. John Stowell* of the County of *Sommerſet*: Who having bin often before this Court, hath ſo well defended himſelfe; and wiped off all Objections, and made ſuch good uſe of the Articles of the Rendition of *Exceſter*, that in the Opinion of all men, and in deſpite of their enſnaring Acts for New Treasons, he can not be adjudged guilty of any Treason, Old or New, which was the Summe and Complement of the Charge againſt him. Wherefore the Court put off his Triall for a longer time, to hunt for New Crimes and witneſſes againſt him. At laſt came into the Court as a witneſſe *John Ashe*; notwithstanding he is a Party many waies engaged againſt him. 1. *Ashe* is a Parliament man; in which Capacity *Sr. John Stowell* bore Armes for the King againſt him. 2 ly. *Ashe* as a Parliament man is one of the Conſtitutors of this Murderous Court and the Judges thereof, and therefore their Creatures (who expect rewards from them) beare a more awfull reſpect to his testimony, then a witneſſe ought to have

from Iudges. 3<sup>ly</sup>. It is publikely knowne that *Ashe* hath begged of the house a great summe of mony out of the Composition for, or Confiscation of *Sr. Johns* Estate. And 4<sup>ly</sup>. It is knowne to many That during *Sr. Johns* many yeares Imprisonment *Ashe* often laboured with *Sr. John* to sell unto him for 4000<sup>l</sup>. a Parcell of Land which cost *Sr. John* above 10000<sup>l</sup>. promising him to passe his Composition at an easy rate, to procure his enlargement from prison, and send him home in peace & quiet if he granted his desire. But allthough with all their malicious diligence, they cannot find him guilty of High Treason, yet their Articles of Impeachment Charge him in generall Tearmes with Treason, Murder, Felony and other High Crimes and Misdemeaners; & amasse together such a Sozites and Accumulation of Offences as if one faile another shall hit right to make him punnishable in on kind or other: such a haileshot charge cannot wholly misse: either they will have life, estate, or both; Contrary to the Nature of all Enditements & Criminall Charges whatsoever; which ought to be particuler, cleere and certaine (Lamb: pag. 487) that the Accused may knowe for what Crime he puts himselfe upon Issue. But this Court (as High as it is) not being Constituted a Court of Recorde: nor having Commfission returnable into any Court of Recorde; the Prisoner, and those that are concerned in him, can have no Recorde to resorte to either. 1. To demande a writ of Error, in Case of Erronious Iudgement. 2. To ground a plea of Auterfois Acquite, in Case of New Question for the same fact. 3<sup>ly</sup>. Or to demande an Enlargement upon Acquittall. Or 4<sup>ly</sup>. To demande a writ of conspiracy, against such as have combined

to betray the life of an Innocent man. Whereby it followes; That this prodigious Court hath power only to Condemne and Execute; not to Acquite and give Enlargement; Contrary to the Nature of all Courtes of Iudicature, & of Iustice it selfe: it is therefore a meere *Slaughter-house* to Commit Free-State Murders in, without, nay against lawe and Iustice: & not a Court of Iudicature; to Condemne the *Noent*, and absolve the *Innocent*. And the Iudges of this Court runne Paralell with their father the Devill; who is ever the Minister of Gods wrath and fury; never of his Mercy.



The report of the Committee on the  
 subject of the proposed  
 amendment to the  
 Constitution of the  
 State of New York  
 is hereby published  
 in the form of a  
 separate report  
 to the Legislature  
 of the State of New York  
 for the year 1901.

# The humble Answer of Col. *Eusebius Andrewes* Esquier, to the Proceedings against him before the Honorable, The high Court of Justice 1650.

**T**He said Respondent ( with favour of this Honourable Court) reserving and praying to be allowed, the benefit & Liberty of making farther Answer, if it shall be adjudged necessary, offereth to this Honourable Court.

That by the Stat. or Charter stiled *Magna Charta*, ( which is the Fundamentall Lawe, and ought to be the Standard of the Lawes of England, Confirmed above 30 times, and yet unrepealed. ) it is in the 29 Chapter thereof graunted and enacted.

1. *That no Free-man shall be taken or imprisoned, or be disseised of his Freeholde or Liberties, or Free Customes; or be outlawed or exiled, or any other wayes destroyed, Nor, wee shall not passe upon him, but by a lawfull Judgement of his Peeres, or by the Lawe of the Land.*

2. *Wee shall sell to no man, nor deferre to any man Justice or Right.*

By the Stat. 42. Ed. III. chap. III. The Great Charter is commanded to be kept in all Points: and it is enacted.

*That if any Stat. be made to the Contrary, That shall be holden for none.*

By the Act 26. March 1650. entituled, An Act for Establishing, An High Court of Justice. Power is given to this Court; To Try, Condemne and Cause Execution of death to be don, upon the

*Freemen*

*Freemen of England, according as the Major Number of any 12. of the Members thereof shall Judge to appertain to Justice.*

And thereupon the Respondent doth humbly inferre, & affirme, that the Tenor of the said Act is diametrically opposite to, and inconsistent with the said Great Charter. And is therefore by the said recited Stat. 42. Ed. III. to be holden for none.

Secondly, That it can with no more Reason, Equity or Justice, hold the reputation or value of a Lawe, ( if the said Stat. had not bin ) then if ( Contrary to the 2<sup>d</sup>. Clause of the 29. chap. of *Magna Charta* ) it had bin also enacted, *That Justice and Right shall be deferred to all Freemen and sould to all that will buy it.*

By the Petition of Right, 3<sup>o</sup>. Car: upon premising: That Contrary to the Great Charter, Trialls & Executions had bin had & don against the Subjects, by Commissions Martiall, &c. it was thereby praied, & by Commission enacted. That:

1. *No Commissions of the like nature might be thence-forth issued, &c.*
2. *To prevent least any of the Subjects should be put to death, Contrary to the Lawes and Franchises of the Land.*

The Respondent heereupon Humbly observeth; and affirmeth: That this Court is ( though under a different Stile ) in nature, and in the Proceedings thereby directed; the same with a Commission Martiall. The Freemen thereby being to be tried for life, and adjudged by the Opinion of the Major Number of the Commissioners sitting, as in Courtes of Commissioners Martiall was practised; and was agreeable to their Constitution: And consequently against the Petition of Right: in which he, and all the Freemen of England ( if it be granted there be any such ) hath and have Right and Interest, and he humbly claimes his Right accordingly.

By the Declarations of this Parliament, Dec. 15. & Ian. 17. 1641. The Benefit of the Lawes, and the Ordinary Course of Justice are the Subjects Birthright.

By the Declarations 12. Iuly 16. Octob. 1642. The Prosecution of the Lawes, and due Administration of Iustice, are ownd to be the Iustifying cause of the warr, and the end of the Parliaments Affaires managed by their Swords and Counsellis, and Gods Curse is by them imprecated, in case they should ever decline those ends.

By the Declaration 17. Aprill 1646. Promise was made not to interrupt the Course of Iustice, in the Ordinary Courtes.

By the Ordinance or votes of Non Addresses, Ian. 1648. It is assured. That; Though they lay a syde the King; Yet. they will Governe by the Lawes; and not interrupt the Course of Justice, in the Ordinary Courtes thereof. \*

And therefore this Respondent humbly averreth and affirmeth. That the Constitution of this Court, is a Breach of the Publike Faith of the Parliament exhibited and pledged in those Declarations and votes to the Freemen of England.

And upon the whole Matter, the Respondent (saying as aforesaid) doth affirme for Lawe & claimeth as is Right. That:

1. This Court in defect of the validity of the said Act, by which it is constituted, hath no power to proceede against him, or to presse him to a Further Answer.
2. That by virtue of *Magna Charta*, The Petition of Right, & the before recited Declarations, he ought not to be proceeded against in this Court; but by an Ordinary Court of Iustice, and to be tried by his Peeres.

\* They forget the 2. Declarations  
9. Febr. 17. March 1643.

And humbly prayeth: That this his present Answer and *Salvo* may be accepted and registred.

Eusebius Andrewes.

## The Second Answer of Col. Eusebius Andrewes Esquier, To the Honorable The High Court of Justice. 1650.

THE said Respondent (with the Favour of this Honorable Court) reserving and praying to be allowed the Benefit, and Liberty of making further Answer, if it shall be Necessary. In all humbleness for the present Answer offereth to this Honorable Court.

That by the Letter and genuine sence of the Act entituled An Act for establishing an High Court of Iustice. *The said Court is not qualified to try a Freeman of England (such as the Respondent averreth himselfe to be) for life in Case of Treason.* For that:

1. *The said Court is not Constituted a Court of Recorde; neither hath Commission returnable into a Court of Record.* So that:
1. *The State cannot upon Recorde (& but upon Recorde can not at all) have that Account of their Freeman, which Kings were wont to have of their Subjects, and States exact else where at the hands of their Ministers of Justice.*
2. *The Freeman, and those who are or may be concerned in him, can have no Recorde to resort to, by which to preserve the Rights due to him and them respectively.* Viz:

1. *A writ of Error in case of erronious Iudgement.*
2. *A Plea of Auterfois acquit, in case of new question for the same fact.*
3. *An Enlargement upon Acquittall.*
4. *A writ of Conspiracy, not to be brought untill Acquittall, against those who have practised to betray the life of the Respondent.*

1. The



1. *The writ of Error is due by Presidents.*

Palchæ 39. Ed. III. Iohn of Gauntes Case. Rot. Parliament 4. Ed. III, Num. 13. Count de Arundells Case. Rot. Parliament 42. Ed. III. Num. 23. Sr. Iohn of Lees Case.

2. *Auterfois Acquit appears by :*

Wetherell and Darleis Case. 4. Rep. 35. Eliz: Vaux his Case. 4. Rep. 33. Eliz:

3. *The Enlargement appeares by :*

Stat. 14. Hen. VI. chap. 1. Diers Reportes fol. 121. The yeare Booke of Ed. IV. 10. fol. 19.

4. *The writ of Conspiracy, by :*

The Poulters Case. 9. Rep. fol. 55.

*This Court is to determine at a day ; without Account of their Proceedings : and have power to Try , Judge and Cause Execution : but not to acquite or give Enlargement. So that the Nocent are thereby punishable ; the Injured and betrayed not vindicable. Which are defectes incompatible with a Court of Iustice ; and inconsistent with Iustice it selfe ; and the Honor of a Christian Nation and Commonwealth.*

2. *The Members of this Court are by the said Act directed to be sworne.*

1. *Not in Conspectu Populi ; for the Freemans satisfaction.*

2. *Not in words of Indifferency and obliginge in equality.*

3. *But in words of Manifest Partiality.*

*Viz :*

*You shall sweare ; That you shall well and truly , according to the best of your skill and knowlege , execute the severall powers given you by this Act.*

1. *If the Court be Triers & Judges too, it is humbly offered by the Respondent, That it is but resonable ; That they should be sworne as Triers ; in the sight of the Freeman, who shall be upon his Triall.*

2. *And ; That as Iustices of Oier and Terminor , ( They being authorised to heare and determine by the words of the Act ) They should take an Oath, such as is usuall & equall, set downe Ed. III.*

*Viz: You shall swear, That well and lawfully you shall serve our Lord the King, and his People in the Office of Justice, &c. And that you deny to no man Common Right.*

3. Or that this Court (taking Notice of such High Matters as Treason, upon the Guilt wherof the Freemen's life depends) should take an Oath (at least) as equall as a Justice of the Peace. Daltons Just. of Peace, fol. 13. the words are.

*I A. B. do swear that I will do equall Right, &c. according to my best wit, cunning and power, after the Values and Customes of the Land, and the Statutes thereof made, &c.*

4. *If the Court will be Judges and Triers too: (for they have power given them to Conclude the Freeman, by the Opinion of the Major Number of twelf holding some resemblance (but with a signall difference) with the verdict of a Jury) It were but reasonable that they should take an Oath Correspondent to that usually administred to Jury men. The words are.*

*You shall well and truly Try, and True Deliverance make, betweene the Keepers of the Liberties of England, and the Prisoner at the Barre, according to your Evidence. So helpe you God, &c.*

5. When this Court (as it is now constituted) hath condemned a Freeman, by applying their skill and knowlege to the power given them, whether justly or not: the Oath injoynd them by the Act 26. March 1650. is not broken, Literally; as to be exactible by man, Though God will have a better Account.

And therefore upon the whole Matter premised: The Respondent (saying as before) averreth for Lawe & Reason; That this Court by the words of the Act Constituting it; is not qualified, (in respect of the objected defects) To passe upon him for life in case of Treason. And praies this his 2<sup>d</sup>. Answer may be received, with the Salvos and Registred.

Eusebius Andrewes.

## The Third Answer of Col. *Eusebius Andrewes* Esquier, To the Honorable, The High Court of Justice 1650.

**T**He said Respondent ( with favour of this Honourable Court) reserving and praying to be allowed, the benefit & Liberty of making farther Answer, if it shall be necessary, in all humbleness for present Answer offereth to this Honorable Court.

1. That it is his Right ( if he admit this Court to be duly & legally established, and constituted as to their being a Court) To be tried by his Peeres; men of his owne condition and Neighbourhood.

2. That it is within the power of this Court, by the Letter of the *Act* 26 March 1650. Or ( at least ) not repugnant to the *Act*; To Try him by such his Peeres, &c.

1. That it is his Right to be tried only so, appeares by :

Magna Charta chap. 29.	25. Ed. I. chap. 1. and 2.
25. Ed. III. chap. 9.	25. Ed. III. chap. 2. and 4.
28. Ed. III. chap. 4.	37. Ed. III. chap. 18.
42. Ed. III. chap. 3.	

By all which this Right is maintainable; And the Proceedings contrary thereunto will be held for none, & to be redressed as void & erroneous.

So that If the *Lawes* and *Courtes* were not obstructed in the cases of some sort of *Freemen* of *England*, the whole proceedings contrary to these *Lawes* without a *Jury* of his *Peeres*, were avoidable and reversible by writ of *Error*, as appeares by the *Presidents* vouched in the Respondents 2<sup>d</sup>. Answer.

3. That it is in the Courtes power, To try the Freeman, & consequently the Respondent, by a Jury of his Equals; The Court is humbly desired to consider the words of qualification.

1. *The Court is authorised; To heare and Determine: and so (if at all Commissioners) then Commissioners of Oier & Terminer, & such Commissioners, in their naturall Constitution, and Practicall Execution, do proceede against Freemen according to Lawe, by a Jury of their Peeres, and not otherwise.*
2. *Authorised to proceede to Triall, Condemnation and Execution: But not restrained to the manner limitative: As, to Triall by the Opinion of the Court, as Triors. Nor, exclusive, As, to Triall per Pares. But is left in the Manner, as in the Judgement it selfe, To the Opinion of the Major part of 12. & if they shall thinke fit to try by a Jury, it will be no offence against the Act, their being no prohibition to the contrary.*

And though this Respondent insisteth upon his said Right, consistng with the Courts said power, and the more to induce the Court to graunt him his said Right; He humbly representeth the wrong don to himselfe, and in him to the Freemanzy of England, in the following Particulars, against their just Rightes depending upon such Trialls to be allowed or denied.

1. *Challenges to his Triors Peremptory, or with cause of Challenge.*
2. *Seeing, heering and Counter-questioning the witnesses for clearing of the Evidence; in matter of Fact and Circumstance.*
3. *The being convicted or acquitted by a Full, and fully consented verdict.*

To all which benefits as his undoubted Right, and the Right, of all the Freeman of England; the Respondent maketh claime, by these Reasons, Lawes and Presidents following.

1. *The Benefit of Challenges by the learning of Stanford in his Pleas of the Crowne, Title Challenge fol. 150. To Challenge 35. without Reason shewed; and with Reason shewen, without Number. Adjudged 32. Hen. VI. in Poinings case, abridged by Fitzherb: Tit. Challenge, fol. 26. allowed in Hillary 1. Jac. to S<sup>r</sup>. W: Rawley and Brookes.*

2. *To the hearing and questioning the value and weight of the witnesses. The Lawes are plaine in Stanfords pleas of the Crowne, fol. 163. 164. Stat. 1. and 2. of Phil. and Mary, chap. 10. 11. 1. Ed. VI, chap. 12. Cookes 3. Inst. pag. 12. upon the words in the Stat. 25. Ed. III. chap. 2. (Provablement atteinte) Because the punishment was heavy the proosse must be punctuall, & not upon presumptions or Inferences or streines of wit, nor upon Arguments simili, or *Minori ad Majus*, &c. But upon good and cleere Proofes, made good allso by the Stat. 1. Ed. chap. 6. 19. Ed. chap. 1.*

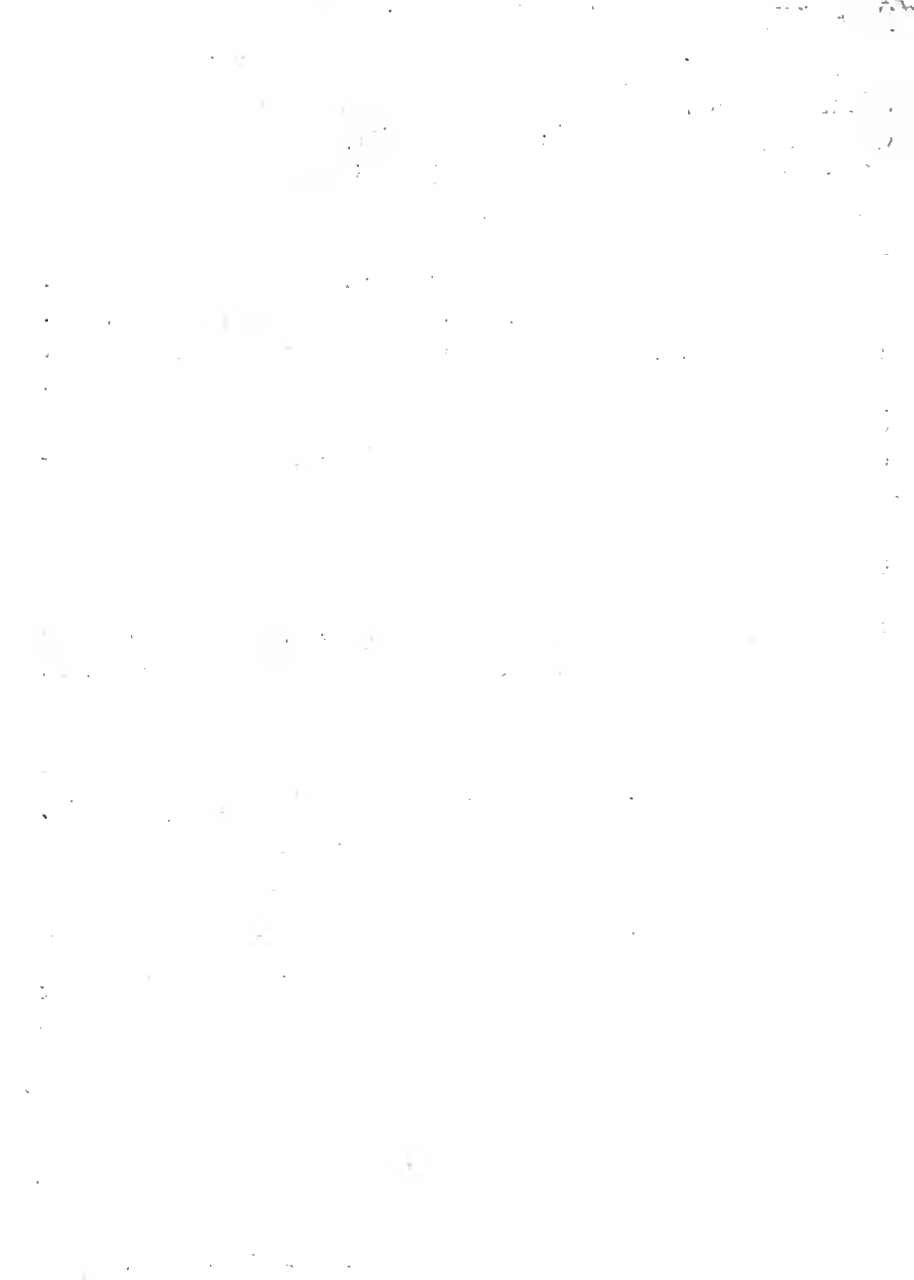
3. *A verdict by Iury passeth from all, or not at all, In this way of proceeding by the Court immediatly: it passeth by way of concurrence (or voting) the great faulte found with the Starre-Chamber; and all Commissionary Courts, proceeding without presentment or Enditement.*

4. *A verdict passeth from a Iury before discharged, upon their Affaires of Busines, or supplies of Nature; to prevent corruption by mony or power. In this way of Triall a man may be heard to day, & a Sentence given at leasure, when the power & will of those by whome the Freeman is prosecuted, be first knowne. And from such a Proceeding this Respondent can hope little equality; he being (to his knowlege) forejudged allready by them.*

And therefore (if at all this Honorable Court thinke fit to proceede to a Triall, of this Respondent) he claimes the Benefit of *Triall per Pares: by Evidence viva voce.* And reits on the Opinion of the Court; saving (as formerly) Liberty of farther Answer, if over ruled.

And praies that this his Answer and Salvos may be accepted and Registred.

Eusebius Andrewes.













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